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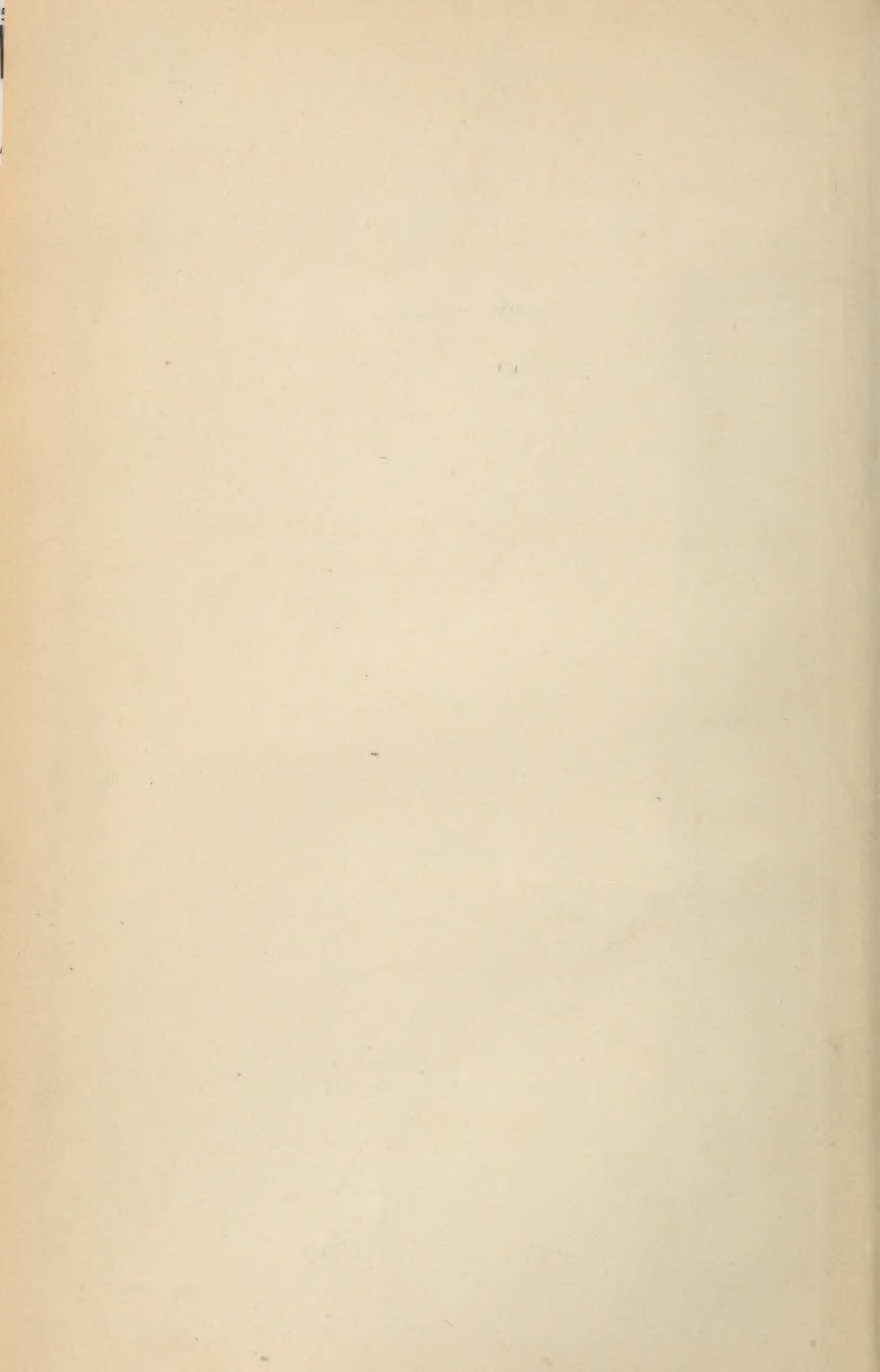
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# CRIME ABNORMAL MINDS AND THE LAW

BY

ERNEST BRYANT HOAG, A. M., M. D.

*Special Lecturer on Criminology and Mental Hygiene,  
University of California, Psychiatrist in the  
Superior Courts, Juvenile Division,  
Los Angeles,*

AND

EDWARD HUNTINGTON WILLIAMS, M. D.

*Psychiatrist in the Superior Courts, Psychopathic  
Division, Los Angeles.*

INTRODUCTION BY

HENRY H. GODDARD, Ph. D.

SPECIAL CHAPTERS BY

ROBERT H. GAULT, Ph. D.

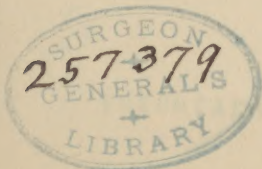
*Editor of the Journal of Criminal Law and Criminology;  
Operating Director of the Bureau of Criminal Analysis;  
Professor of Psychology in Northwestern University*

AND

MIRIAM VAN WATERS, Ph. D.

*Referee Juvenile Court, Los Angeles;  
Lecturer on Social Problems,  
University of California*

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PRESIDENT  
UNIVERSITY OF SOUTHERN CALIFORNIA





## PREFACE

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In presenting this book to the public the authors have in mind the need for a brief but accurate account of the common mental defects and sociological factors encountered in a study of adult criminals, and of delinquent children. From an extensive experience in criminological work, including the psychopathic laboratory and much expert testimony in court, they are convinced that many judges, lawyers, police officials and doctors will welcome the sort of information which is here given. They also have in mind the needs of social service workers, teachers, and students of sociology, and last, but not least, a certain part of the general public, which is asking almost in vain for the explanation of the criminal and delinquent behavior which today, more than ever before, presents itself in every large community. The authors have not pretended to offer anything new to experts in the study of abnormal behavior, yet they hope that even some of these will find the case-histories, at least, interesting and perhaps valuable.

Whatever else may be said in criticism of this book, it can not be said that it is based upon theoretical knowledge. The authors have drawn upon an experience which has covered State Institutions, Lunacy Commissions, the Juvenile Court, the Adult Probation Department, Public School Clinics, Psychopathic Hospitals and private Neurological Practice.

ERNEST BRYANT HOAG,  
EDWARD HUNTINGTON WILLIAMS.

Los Angeles, March, 1923.



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## GENERAL INTRODUCTION.

BY HENRY H. GODDARD.<sup>1</sup>

Korzybski says that the World War marks the passage of humanity from its childhood to its manhood. This suggests Paul's statement, "When I was a child, I thought as a child, I acted as a child, but now that I am become a man I have put away childish things." It would be easy to show that up to date, humanity has certainly thought and acted like a child, nor is this anywhere more in evidence than it is in our thought and management of the problem of crime. If we have at last come to manhood, we may hope that from now on we will begin to handle these problems like intelligent adults.

Crime is a violation by the individual of the edicts of the group. It grows out of the conflict between man's many instinctive tendencies. The crimes that we commit are things that we do in accordance with our natural instincts, the attempts to gratify in-born tendencies; things which society has decreed that we must not do.

Some partially intelligent criminals justify their acts and many, more intelligent people, while they obey the law, do it grudgingly; because they say that it is natural to do these things, and it is purely arbitrary on the part of society to say that they shall not be done.

This argument seems plausible only because we do not think far enough into the problem, and discover that the laws which society has made depend upon a natural instinct that is even stronger than the instincts which the individual seeks to obey.

Society, itself, is the result of following the gregarious instincts, the instinct to live together in social relations. This instinct to live together in groups, has resulted in what we call civilization,

<sup>1</sup> Professor of Abnormal and Clinical Psychology, Ohio State University, Columbus, Ohio.

which is an attempt to adjust ourselves to ever larger and larger groups in such a way that all can have the greatest happiness. But we no sooner attempt this group existence than we discover that the gratification of many of the other instincts has to be curtailed.

As we discover these conflicts between the welfare of the group and the preferences of the individual, we proceed to make what we call laws, which simply state the conclusions but do not give the arguments. The law, "Thou shalt not steal," for example, stated in full, would read something as follows: "Whereas we have elected to live together in what we call a human society, and whereas the gratification of the hoarding instinct which prompts the individual to seize anything and everything that he thinks he may sometime need, would in the end destroy our society; therefore, be it enacted that the individual must give up this tendency and whoever refuses to give it up is an enemy of society, or as we say, a criminal, and must be cast out." Banishment from the group is the natural and simple solution of the problem. Originally this was the procedure, and even yet is sometimes resorted to. Even today, our courts sometimes say to the offender, "You must leave this community." But as we advance in civilization, it becomes more and more difficult to banish the individual where he either will not return or where he will not be equally injurious to some other branch of the human family.

In especially offensive crimes there was also aroused the spirit of revenge, and punishment originated. Punishment is a recognition of the emotional side of our nature, rather than the rational side. The logical treatment of the offender is banishment. It is perfectly logical to say to the person who will not conform to the regulations of society, "If you cannot give up those practices which tend to destroy our organization, you must get out." To say, "You have injured us, therefore we will injure you," is irrational and fully emotional; belongs to the childhood of humanity, and not to its manhood. But childlike, having yielded to our emotions, we have attempted to justify them.

We have rationalized our procedure by evolving the idea that our purpose is to reform the individual. Sometimes, indeed, this is accomplished. More often it fails, and when it does succeed, the result is frequently unsatisfactory, because it is done grudgingly. The individual reforms to the extent that he obeys the mandates of society, but he does it grudgingly and not wholeheartedly because he does not understand the situation. Moreover, as the group becomes larger, and our inter-relations and interdependencies become more extensive and complicated, there are more and more individual activities that have to be given up for the sake of the group. Again, having developed an elaborated machinery for the making of laws for the protection of the group, we have entirely lost sight of the individual. A group of people perhaps more socially inclined than others or with less initiative, or less desire to gratify their other instincts, find it very easy to pass laws. When these laws are violated, the good people allow their emotions to function strongly and the idea of punishment becomes correspondingly strong.

The appalling increase of crime with the progress of civilization has at last attracted the attention of intelligent people, and we are beginning to ask, "What is the matter?" That question is the most hopeful sign in the present situation. For, once we turn our attention seriously to answering it, we shall discover what is the matter, and find a way to correct the mistake.

The authors of this book have set before us very clearly some of the difficulties of the situation. Two important facts, bearing upon the problem, are clearly presented. First; there are masses of people who do not understand the situation; who have never had it explained to them why they should give up what they consider their individual rights, and conform to the mandates of the group. And second; there is a very considerable proportion of people who have not sufficient intelligence to understand the situation. And another group who, while they have a good degree of intelligence, are suffering from mental sickness, and cannot reason clearly or cannot control their own impulses. The question then arises, "What is to be done?"

The reader who seriously considers the facts presented in this volume will have no difficulty in answering the question. The first thing that will appeal to the manhood of humanity is the fact, fundamental to all efforts to deal with the problem of crime, is the absolute necessity of first determining the nature and condition of the criminal; whether he belongs to either of the classes just mentioned or to some other class, but at least we must have an understanding of the situation from his point of view. The second obvious conclusion is that we must take the results of this inquiry into consideration in our attempt to deal with the situation. This is more difficult, and may not be immediately solvable. Those who are criminal because they are not endowed with sufficient intelligence to appreciate the needs of society, and the reason that their acts are wrong, must be taken care of by the group and placed in a simplified environment where they will either not be tempted to violate the law, or where their violations will be less destructive of the social order. It would seem that those who are violators because they are mentally sick, should be cured. At least such efforts should be made. For those who have never understood the true situation, it would seem that we have ample machinery if we only use it. We have a wonderful school system for training children. If we ourselves have lost sight of the prime function of the school; if we have practically accepted the doctrine that the function of a school is to give children information about the material world; and if we have ignored the rather obvious fact, that since the social organization is of supreme importance, the greatest function of the school should be to transform the child from a being whose natural tendency is to gratify all his instincts, into a being whose first thought must be for the welfare of the group as a whole, it is certainly time to "right about face." What can be accomplished in this direction is perhaps beyond the power of our imagination to conceive. And yet we have talked about it a great deal. Much has been said on the subject of developing future citizens, but it is to be feared that we have thought that future citizens are made by imparting to students a knowledge of everything in the



universe known to man, except the nature of human society, its ideals and purposes.

It is to be hoped that this book will be read by thousands of people, and will lead to an appreciation of the fact that a surprisingly large percentage of the population can not be reformed no matter how early the process is begun, but must be banished, if not to a distant country where they can live their individual lives and gratify all their impulses, at least not to a prison, where they are detained for a short time and then released just as criminalistic as ever, not to say worse through association with others of like tendencies. But rather, that they should be, figuratively speaking, banished to some kind of a colony or institution where they shall remain until definitely cured or transformed. If that be for life, so be it. It is not a punishment, but a kindness both to themselves and to society.

In conclusion, let me call attention to the fact that the authors of this book are not emotional impractical dreamers. They have not presented to us extreme and exceptional cases, nor drawn irrational conclusions. They are intense students of the problem. They have presented facts that are typical of conditions everywhere, and society should be intensely grateful to them for having put the material in a form where it is accessible to those of us who have not the time to make a first hand investigation of these problems.



## INTRODUCTION.

By ERNEST BRYANT HOAG,<sup>1</sup>

### CONDUCT AND RESPONSIBILITY.

Until rather recently, no great amount of attention has been given to the subject of why people behave as they do. Individuals have always been expected to conform in their behavior to certain established customs without much regard to circumstances of birth and training, upon which normal conduct and behavior are conditioned. But whether one succeeds in adapting himself to the normal customs or social codes of the community in which he happens to live depends upon a great number of factors which have entered into his make-up, some of which are conscious and a great number of which are less-conscious. Of those factors which are less-conscious, we now know that a part of them furnish the material for mental complexes of various kinds, and that much of abnormal behavior, including not only crimes, but also some ordinary nervous diseases, is dependent upon these. Of the various elements which enter into the mental constitution of an individual, some are matters of inheritance and some are matters of environment, and what one really is, and does, is a resultant of a given inheritance acted upon by the circumstances of his environment. The extent to which one is free to determine one's behavior and conduct is undoubtedly much more limited than most of us realize, and this fact should greatly modify our ideas in respect to responsibility, punishment and reform. The determination of responsibility is one of the principal concerns of the criminologist, and today, more than ever before, the mental and physical constitutions of individuals, and the mechanism of their character formation upon which responsibility rests, are being studied, analyzed and practically applied.

<sup>1</sup> Special Lecturer in Criminology and Mental Hygiene, University of California.

The idea of differences in personal responsibility as these are found in different people, is at last coming to be recognized not only by physicians and psychologists, to whom this is a matter of professional interest, but even by our courts and moral leaders to whom the matter is one of vast practical importance. Modern psychology, sociology, psychiatry and medicine have contributed much to the understanding of human behavior, and have swept away the old principle of free will, with its consequent theory of the equal responsibility of all. In respect to the sort of behavior that exhibits itself in crime, the old classical school held that a certain crime must always be punished in the same manner, because all persons were free and equal, and, therefore, all committing the same crime equally responsible in their acts. Attention was fixed not on the criminal, but on the crime, and the theory of punishment was based on deterrence through intimidation. All the principles of the classical school were founded upon the theory of free will and the personal moral responsibility of the criminal. As all were, according to this principle, equally responsible, no individual study of the criminal was necessary.

On such a faulty theory as this, criminal law and procedure have been largely established and have never, to any considerable extent, departed since the time of Becarria in the last part of the eighteenth century, when he summed up the criminal literature of that time in his book called "Crimes and Punishments." The older schools of criminology attempted to fit the penalty to social requirements, and their theories, therefore, constituted a philosophy rather than a science.

The studies of Lombroso, however, in the last part of the nineteenth century directed attention to the necessity for the study of the constitution and character possessed by the individual criminal, and the idea of fitting the punishment to the criminal, rather than to the crime, was consequently advocated. But, while Lombroso applied the modern discoveries of biological and medical science to the study of the behavior of the criminal and in so doing established a science in place of a philosophy in regard to crime and criminals, his conclusions are only just now beginning



to bear fruit in the treatment of criminals in our courts and institutions of correction.

This is perhaps not so difficult to understand when we realize that even the scientific principles of Lombroso were in many respects faulty and only served to lay the foundation for the more modern medical and psychological studies upon which the science of criminology is today built. With the development of methods for studying the physical and mental make-up of individuals, including intelligence testing, psychoanalysis,<sup>1</sup> and the improved principles of psychiatry, behavioristic study has become to a large degree possible and profitable, and today as never before we are provided with the means for the understanding, explanation, and control of human behavior. The old method of our courts concerned itself only with the end products of human acts. The new method seeks to understand the whole history of the individual, the factors of his heredity and environment, and especially the early experiences of his childhood, before any real solution of the problems of abnormal behavior is attempted. As White says, "The criminal act which finally leads to a prison sentence is but the outcome of a life of distorted viewpoints, of standards of conduct turned and twisted out of all resemblance to those with which the normal person is familiar in his daily living."<sup>2</sup>

Before the criminal behavior of an individual can be understood, the criminal himself then, must be subjected to the thoroughgoing examination of the Psychopathic Laboratory, which will investigate not only his physical and mental status, but study his social development as well. The Criminal court thus becomes not only a Judicial, but a sociological organization, for criminology is, after all, only a part of the larger science of sociology.

Studies of the history of punishment, as Dr. Henry Goddard has said, show that the idea of inquiring into the responsibility of the offender is an extremely modern notion, but it will, he says, in the near future become a fundamental principle in the

<sup>1</sup> Psychoanalysis in a broad sense, not within the restricted and extreme interpretation in which the Freudian School has made use of this term.

<sup>2</sup> Mental Hygiene—White.

treatment of all offenders both juvenile and adult.<sup>3</sup> Great numbers of such offenders are irresponsible for their acts, because of deficient intelligence, and the proportion of the general population which possesses relatively low intelligence or an abnormal mental make-up, is so great as to make necessary a complete revision of our ideas of responsibility. The examination of 1,700,000 of our American soldiers in the last war brought out some most astounding facts in respect to responsibility and fitness for citizenship, and these results are highly disturbing because they probably represent the average mental status of our population. For example, ten per cent had only the intelligence of a ten year old child or less, and these were considered entirely unfit for service across the ocean; fifteen per cent had only the mental level of eleven year old children; in other words, twenty-five per cent were of distinctly inferior intelligence. Roughly speaking, it may be said that based upon these carefully made psychological army tests, twenty-five per cent only of our population have the necessary ability for some sort of leadership, and of this proportion only about five per cent possess superior intelligence; fifty per cent are mediocre, and twenty-five per cent are inferior, the lowest of this twenty-five per cent representing the actual feeble-minded, and including a total number not far from that of those who have superior intelligence.

Where similar tests have been applied to school children the results are practically the same, thus confirming the conclusions in respect to the mental levels of the adult population. Dr. Goddard shows in his last book, "Juvenile Delinquency," that in our schools today thirteen per cent do not pass beyond the fourth grade; another thirteen per cent do not get beyond the fifth; fourteen per cent fail to pass beyond the sixth; twenty-seven per cent do not get beyond the eighth grade. The reason for this is explained largely by the fact that each group has reached its limit of mental development.

These facts alone are of the greatest possible significance in relation to the general problem of crime and delinquency when

<sup>3</sup> Juvenile Delinquency—Goddard.

we take into consideration another statement of Dr. Goddard. "In the present stage of our knowledge of the evolution of the human mind it seems fairly certain that it requires at least twelve year intelligence to be able to understand abstract principles; that consequently we shall never succeed in socializing those people whose mental capacity is less than twelve years by any of the methods now in vogue in our schools. This can only be done by training them in definite concrete work with their hands and teaching them such elements of truth and honesty as they themselves can experience. \* \* \* Is it not obvious why we have so many delinquents, and is it not amazing that we do not have more?"<sup>4</sup> The primitive instincts are at the bottom of most of our behavior, but fortunately among those of us who can be, and are, socialized, these instincts are more or less under control. The social instinct is today the strongest and most essential one for successful living under the conditions of civilization, but when the demands of the group run counter to the old primitive individual instincts, "we are bound to have a struggle." It is, as Dr. Goddard points out, these outbursts of the old instincts, which are supposed to be under control, that lead to crime and delinquency, for the reason that these outbursts occur most easily in those whose intelligence is low.

The reasons for abnormal conduct are then, no longer matters for purposeless argument. Such conduct is now in a large measure explicable, and we are beginning to realize that physical and mental disease and disorder produce conditions which are favorable to the commission of offenses when opportunity is offered. The obvious conclusion is that we must either cure those who are thus afflicted, or what will more often be necessary, place the socially unfit where they will be least likely to offend, for "personal liberty ends where public injury begins."

For purposes of convenience in studying the individual delinquent we may establish groups or types, but in an exact sense there is no true criminal or delinquent type. The expression is, however, a convenient, and within certain restrictions, a perfectly

<sup>4</sup> Op. Cit.

proper one to make use of. Among offenders we encounter large numbers whose offenses appear to be mainly conditioned by certain definite and recognizable defects of a constitutional nature. It is to these that the term "criminal type" may be applied with the full appreciation, of course, that no one factor ever completely accounts for their abnormal behavior. One such factor may, however, dominate the situation to such an extent that it appears to be the controlling one in the individual's make-up. Among these dominating qualities certain of them stand out so conspicuously that they appear to constitute natural groups including, for example, feeble-mindedness, insanity, epilepsy, psychopathic personality and the semi-insane. The same types of individuals found in these groups of offenders are certainly to be found also in the general population, but it would appear that certain constitutions predispose to crime when exposed to a socially unfavorable environment, although criminal or delinquent acts do not always follow. Crime and delinquency are, in fact, expressions of abnormal behavior which constitute a form of social inadequacy, and in one sense all forms of such social inadequacy are exhibitions of mental deficiency. Offenders in the main are handicapped in one way or another, and these handicaps result in behavior which we call antisocial, unadaptable, criminal. To many of these the social code is hazy, ill-defined affair; to others it is understood well enough, but mental twists of one sort or another prevent a normal reaction to such knowledge. To know a thing is quite a different affair from the ability to act on such knowledge, a point which strangely enough is as yet largely unrecognized in criminal procedure.

In addition to the types of offenders already mentioned there remain those insane, whose reasoning powers may be perfectly good but who act on wholly wrong premises; that is, they have delusions which distort the material on which they proceed to reason; and finally we have those offenders who are constitutionally normal enough, but who, through faulty training, have never established any satisfactory standards of conduct. Many of these are confused by the different manner in which standards seem to be presented at home, in the school, in industry, by the



church, by the theatre, by the press, by the movies; a point easily understood when one stops to consider our strange inconsistencies in what is tolerated and encouraged in good society. Abnormal behavior and conduct are then socially inefficient types on reaction largely based upon constitutional defects of one sort or another with here and there individuals whose faulty training has never developed in them any proper respect for the ethical ideals demanded by the majority of people among whom they live, and here and there individuals who have accidentally dropped into crime through force of circumstances, and who constitute a group known as accidental criminals. It is from this last class that we may hope for the best results in modern prison reform.

In our attempts at justice we have failed to take into consideration the most important causes of abnormal, anti-social conduct, and in this failure to understand conditions which now begin to appear rather obvious, we have treated the effects or symptoms rather than the causes, just as less than a century ago we did in medical practice. Punishing a maniac never removed the demon of which he was supposed to be possessed, yet this was done for many centuries. Witches are no longer persecuted or killed because we now know that witches have always been nothing more than ordinary people mentally warped. Women and children have now secured, at least in Christian countries, the rights of all human beings despite the fact that for time untold the treatment accorded them furnishes some of the blackest pages of all history. But the treatment of the criminal is still everywhere in principle, if not in practice, that of the dark ages.

From a legal point of view the concept criminal means nothing except that an individual has violated a man-made law; it tells us nothing at all about him; it merely tells us the attitude of society towards him. "The name becomes the thing," just as it does in insanity which, in a legal sense, means absolutely nothing except "committable". The new view of crime and criminals is, that what a man does is a result of his heredity and his environment which we must thoroughly under-

stand if we are to reach any important conclusions about him and his acts. Faulty education and a vicious environment may account for very much in the realm of crime, but crime is far more to be accounted for in the field of pathology. There can be no inheritance of criminality as such, any more than there can be an inheritance of skill in playing the violin; but traits of character, and "weak inhibitions," are inherited which predisposed to crime when opportunity is offered just as musical traits are inherited which may lead a man to become familiar with a particular instrument. Such studies as those of Glueck and von Kleinsmid in this country and Goring in England, not to mention many others, give conclusive evidence of the defective constitution of a large majority of those individuals whose acts lead them into criminal careers.

Statistics among offenders wherever they have been carefully compiled confirm this opinion in regard to them, and if one is inclined to doubt this statement he need only inform himself in regard to the enormous number of recidivists or repeaters in every city jail and prison where records are properly kept, to be convinced that the behavior of criminals is in the main, unlike that of normal people.<sup>5</sup> Their inability to learn and profit by experience, which they everywhere show, is the strongest kind of evidence of their incapacity to adapt themselves to the average conditions of life.

If these conclusions are correct, then society's attitude toward the criminal is not only ineffective and unscientific, but harsh, unsympathetic, and cruel. The control of crime, which is now sweeping the world, can not possibly come about through popular demands for more police, better prisons, more hangings, probation, self-government of prisoners, indeterminate sentence, moral or any other kind of education. These in themselves are all desirable and necessary, but without a recognition of the

<sup>5</sup> "It has been a great many years since any semi-intelligent man believed that all sorts of physical abnormalities were due to one cause and could be cured by one method and yet the prevailing opinion now, even among the fairly educated, is that all sorts of abnormal conduct are due to one cause, perversity and wickedness."—Darrow.

fundamental difference in the make-up between the criminal and delinquent classes, and those who contribute to, rather than prey upon society, no great progress can ever be made, just as no considerable progress has ever been made. It is a well known fact that the proportion of criminals to population has never, except under unusual conditions varied much from two per cent, in spite of anything we have so far attempted to do.

The remedy for crime will certainly never be discovered in any panacea to be applied easily and indiscriminately. The causes of crime are as complex as society itself; punishment as such has little or nothing to do with lessening it, for the application of punishment in every conceivable form has been in effect for many centuries, all without result. This is a problem which will not be solved for a good while to come; certainly not until honest, careful, scientific investigations are made which will furnish the basis for a new and happier order of things.<sup>6</sup>

The greatest hope for the future lies in prevention. The potential criminal and delinquent child are now rather easily recognizable in early life and means for their detection and special preventive education should be put into effect. The entire problem is an eugenic rather than a legal one.

The conclusion of the whole matter would seem to be that our failures in controlling crime or in changing the criminal have in large part been due to our misconceptions of certain fundamental causes. It appears to us that criminals in the main are socially unadaptable individuals, at least when living in the midst of modern complex social conditions; that the immediate practical solution consists in recognizing the differences existing between them in respect to their degree of responsibility and social adaptability, and in segregating under wholesome self-supporting conditions those who are permanently unfit to take their places in the life of the outside world. We should recognize that at present the total number of this class is extremely large.

<sup>6</sup> The explanation of conduct is of course not to be found in any one fact or set of facts. The study of conduct must be founded upon a knowledge of personality with all its complex contributing elements. "He who proposes to lay down rules of conduct must be prepared to be a savant before he is a moralist."—Stewart Paton.

The necessity for controlling in some manner the free propagation of those who are of defective heredity would appear to be rather obvious and at least as desirable as it is with valuable stocks of lower animals.

Finally, we would call attention to Professor McDougall's recent statements in his remarkable book "Is America Safe for Democracy", in respect to the imminent danger to civilization unless superior individuals in society reproduce themselves in sufficient numbers to offset the influence of the almost overwhelming number of the inferior.

NOTE.—The authors do not subscribe to the Freudian idea of the "unconscious" or "subconscious" in human behavior. They regard such behavior as indicating unmet, unsolved, or unacknowledged problems, put "out of mind" in the sense that they do not appear in clear consciousness; do not occupy *attention*.



# CRIME, ABNORMAL MINDS AND THE LAW

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## PART ONE

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### CRIME AND CRIMINALS IN GENERAL

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#### CHAPTER I.

##### CHANGING CONCEPTIONS OF CRIME AND CRIMINALS.

The history of crime and criminals, like every other kind of history, is a matter of evolution. Man of today has evolved from the savage of yesterday, and just as the history of nations is a story of their gradual development from barbarism to civilization, so the history of individual man is a story of his emergence from savagery to culture, from cruelty to benevolence. Nations still show plain evidences of their lowly origin in many barbaric survivals, as for example, in their present propensity for war with one another. Man shows these same survivals of a primitive past in many ways, but in no respect more plainly than in crime.

Early races possessed and needed no criminal codes, for what we regard today as crime was in the past often a virtue. Like the animals with which he contended for an existence, the race was for the strong, the reward for the swift, and brawn, not brain, settled the question of his personal survival. Early man was cruel, crafty, remorseless. He was incapable of pity, trustworthiness, love, or any of the higher attributes of the man of today. True civilization is much younger than we imagine and recent developments have led a good many to believe that nations, if not men, are still in the cave-man stage of development.

McDonald says that among savages crime was the rule and that all languages agree in representing plunder and murder as the first source of property.

Primitive people had no idea of property rights and all property, accordingly, was originally held in common. Theft was not recognized, for each took what he was strong enough to get and kept what he could. Piracy has been a recognized profession until our own day and, in fact, is still practiced in a somewhat thinly disguised form, by the most enlightened nations during every war, just as are wholesale killing, plunder and the confiscation or destruction of property. Crime consists only in failure to conform to established usages. Incest, for example, has been a common practice in the past and is still practiced today without reproach among some rather remote races. Cannibalism has been almost a universal practice in the past, and, as Professor Sumner remarks, it was first the whole body, then a part of it, then man was replaced by animals, and at last symbolic figures were employed.<sup>1</sup>

Adultery among normal people is regarded as a crime with us today, but the marriage of the insane, the epileptic, the feeble-minded, the alcoholic, the lame, the halt and the blind is often permitted and is practically unrestricted. Some primitive races regarded crime according to the social position of the offender, and to steal from a chief might be the greatest of offenses, but for a chief to steal or murder was often regarded as divine right. The confiscation of property, wives or children of the common people, on the part of chiefs, was everywhere practiced in Polynesia until civilization almost within the memory of living men, introduced the rights of the people. The right to take life is today still retained in every civilized country by those whom we invest with authority.

Among early races individuals settled their own disputes; later, retributive punishment was introduced, "an eye for an eye, a tooth for a tooth." Punishment and vengeance became synonymous in meaning, a state of affairs which we have not as yet entirely outgrown. Early legal forms of settlement were secured by combats and duels. Duels have now largely ceased,

<sup>1</sup> Folk-ways: Sumner.

but extremely cruel combats among nations have not yet disappeared.

Infanticide was a common-place practice among many primitive races, and was common among most if not all of the Poly-nesi-ans up to about a century ago. Taking the lives of the old and sick is not unknown even today among rather isolated peoples. The sacrifice of relatives and servants of the dead has been a relatively recent custom among several races including the Chinese, and child sacrifice has been common in India until our own time. Animal and human sacrifices as parts of religious rites are recorded in the Bible, and nearly every history of savage races records this practice. The missionaries encountered this among their early and painful experiences in the islands of the Pacific. Murder has been at times a mark of distinction among many barbarous people, as for example, among the Fijis, in Borneo, and in certain parts of the Philippines. Natural death is said to have been rare among the early Australians and among many other savage races.

The public assassin was well known in Polynesia a little over a century ago, and he is not unknown among highly civilized races today as evidenced by the Chinese High-binders, the Italian Mafia, and by certain other murderous groups to be found in all large cities.

Incest still survives in every large civilized community as a fairly common crime, and while it is regarded as particularly repugnant by normal people, its survival is rather easily explainable, for in the past it was neither repugnant nor criminal. As late as about a century ago it was a usual practice in the Royal families of Hawaii, as a means of perpetuating property and certain other rights and privileges.

Polygamy and polyandry are crimes or virtues entirely according to social and religious usage, and with this understanding of the matter, occasional indulgence in this custom among our own people today need cause no particular surprise or greatly shock our fine sensibilities of the proprieties of life. Biologically speaking, male members of society are said to be naturally polygam-

ous and it is certainly true that the single standard of sex morality has as yet made relatively little progress among any people of any race.

When we realize what the habits and customs of past centuries have been, the explanation of many of our otherwise inexplicable ways of today becomes fairly easy, and leads us to hope for no immediate and complete change in usages we have acquired from the past. Were it not for this fact, civilization could indeed feel little pride or joy in its rather superficial social accomplishments. Viewed in the light of the past, however, man's progress has been little less than miraculous and we need experience little discouragement over our occasional national and individual lapses into savagery, for the culture of today is after all only an extremely thin veneer over a long past of barbarism.

From an anthropological point of view, man behaves remarkably well and his occasional slips into primitive ways which we now call crime, need cause no particular alarm, while the explanation of the habits of those individuals who seem to be naturally anti-social is at least in part made clear. Whatever one may think of the factors of insanity, feeble-mindedness, and other pathological states in relation to crime, and no one who is familiar with the facts can deny their great importance, there still remains the important factor of man's past and the possibility of what seems to be a sort of occasional reversion to type. Taking into consideration the history of man in relation to crime, we see that the conception of crime is itself a matter of social evolution. But social evolution is still imperfect and nowhere reveals the imperfection more clearly than in some of our rather primitive attitudes in matters of social behavior. Our conception of what constitutes crime has (as far as individuals are concerned) undergone a radical and wholesome change; but our conception of the nature of the criminal himself has lagged far behind.

Viewed from the attitude of society toward crime, we should realize that any individual who seriously violates our present social customs or mores, and continues to do so is abnormal,



for nothing is of greater importance in our human relations than established social customs *whatever they may be*. Yet this rather obvious fact has been, and still is, almost totally ignored and the criminal who trespasses upon the most fixed of social usages is still usually regarded as a responsible individual who deliberately plans to injure his fellow men, with full knowledge of the possible consequences.

The criminal by accident is, of course, a normal member of society, temporarily gone wrong, who may usually be restored without much difficulty to his place in the world unless he is ruined by long sentences which break his spirit, morals and health. It is particularly with these cases that the indeterminate sentence and the exercise of the parole system offer the greatest hope. Such a man or woman is not abnormal in make-up but a victim of his or her particular environment.

It is easy enough to define crime and fix penalties but far less easy to determine personal responsibility. What we should at present be most concerned about is, therefore, the character of the perpetrator of the crimes or the criminal himself. We need to recognize not only the fact of the commission of a crime but to know so far as possible, the causes of the act. And this leads us to a study of all that enters into the make-up of individual character as manifested in behavior. Law, as Dr. William A. White says, by considering the crime rather than the criminal, tends to the perpetuation of hate.<sup>2</sup> Criminal conduct, he says, does not create the impression of being unpsychological, strange or grotesque (as does insanity), but, on the contrary, is considered a possible means of expression which must be repressed.

But a slow change of view is manifesting itself at least among those whose business it is to deal with crime and criminals, and the realization is forcing itself upon them that the true criminal is abnormal and that his violation of established customs is the best evidence of it. Modern criminology is concerned then with finding the causes of criminal acts and as far as possible, preventing their recurrence. If, for example, the criminal is found irresponsible, then permanent segregation, no matter what his

<sup>2</sup> Mental Hygiene.—Op. Cit.

offense has been, may be the kindest and most efficient form of treatment. "Preventive Medicine" has been engaged for about twenty-five years in attempting to prevent disease rather than in curing it. Criminology of today attempts to follow the same plan. Criminals largely have a tainted ancestry and their crime is for the most part a matter of bad heredity often exposed to an unfortunate environment. Changing the environment alone never cures, although it may of course mitigate the effect of the inheritance of mental or physical defects. Practical eugenics would often segregate or sterilize or do both to prevent the transmission of those mental defects which express themselves so often in crime.

The old school of criminology makes the punishment fit the crime as measured by the injury done society; the new criminology would make the treatment fit the criminal as measured by his mental, physical and social responsibility. We are well provided today with tribunals to dispense "justice" and with penal institutions to apply the sentence. What we need most are Research Laboratories for the study of the criminal before he is sentenced and the sentence should be in the nature of a legal prescription for his reformation or control, or if that is impossible, for his permanent segregation. Lawyers have not yet greatly departed from the very convenient but wholly unscientific procedure of treating *symptoms* rather than causes, and like the early empirical methods of medical men (now happily changed), they attempt to apply the same legal remedy to many diverse conditions.

But all this is beginning to undergo a change, and diagnosis is slowly coming to be regarded as just as important in law as it is in medicine. When this idea becomes at last well rooted in the legal mind, the prison will become a school and hospital for the re-education, treatment, cure, or control of those unfortunate members of society whose distorted lives tend toward abnormal behavior, and the long cherished false notion of revengeful, retributive punishment as a deterrent to crime will finally be discarded.<sup>3</sup>

<sup>3</sup> Crime is more than a mere accompaniment of defective mind. It is the natural outgrowth of faulty mental processes. \* \* \* Punishment can not cure the criminal.—von Kleinsmid.

## CHAPTER II.

### THE DEFECTIVE CRIMINAL.

Every time a murder is committed our papers are filled with the details of the revolting crime. For a time, usually a day or two at the most, the reading public is aroused with such combined emotions as indignation, pity for the victim, and hatred for the accused. Nearly everyone cries aloud for blood, an eye for an eye, a tooth for a tooth, punishment must be meted out in full measure for the atrocious crime. In all this the public means well, for the feeling demonstrated represents a certain sense of primitive justice, however crude, and an attempt to express the necessity for safeguarding human life. The most kindly and benevolently minded individuals at this time demand the extreme penalty of the law. Religious and irreligious people alike express the same opinions, blood must be had and the crime paid for in full, the criminal exterminated and potential criminals deterred through fear. About such a crime nearly everyone has a very definite opinion and each demands his right to express it, without much regard for any facts except those stated by the newspapers.

In most instances the criminal is tried and convicted by the public long before the time honored, time consuming, antiquated procedures of our criminal courts have dragged out their wearisome and extravagant lengths. A few rather unscientific but sympathetically inclined persons express a righteous horror of capital punishment merely as a general principle and demand its abolishment. But neither this small class, nor the larger one, claiming the vast majority, who always demand quick and certain retribution, possess any real understanding of the nature of crime to the make-up of the criminal himself, and the effects of punishment, or the prevention of similar offenses.

Hardly any one knows that about two per cent. of the community is constantly criminal the world over and that no matter

what we do, no appreciable effect has ever been produced upon this average of criminality. Very few know or seem to care to learn, that the theory of deterrence through fear of legal consequences has never had any considerable effect upon the number of crimes committed; yet such are the plain and easily demonstrable facts.

Whenever it happens that the accused is socially highly connected, no end of publicity is given the case by the papers of every city, and the highest legal talent is engaged at a cost of many thousands of dollars.<sup>1</sup> But, for all results obtained, no greater real progress is made in the solution of the social problem of crime than in the instance of the most degraded social outcast. Crimes continue unabated, courts remain as ever unchanged, true to their traditional forms, and society is neither improved nor enlightened by the whole dismal procedure.

Certain definite, inevitable, social and biological laws underlie crime, laws about as easily understood as any other laws of science, but laws which, so far as the public is concerned, will unfortunately pass unobserved and unheeded until a social conscience is awakened. When this period of awakened social conscience will come no one knows, but certainly at no early date from all present indications.

Chief Justice Harry Olsen of the Municipal Court of Chicago has said: "The static character of criminal statistics in relation to population the world over; the fact that the criminal age at which first commitments occur appears early, when responsibilities come; that this age ranges, in the main, from sixteen to twenty-four years; and that about two per cent. of the population are everywhere charged with crime, always impressed me as significant facts pointing to something inherently defective in the race. The investigations and researches of the alienist and the psychologist tend strongly to confirm this belief."

These figures quoted by Chief Justice Olsen in respect to

<sup>1</sup> Legal science emphasizes the responsibility of the present criminal; social science, the responsibility of society from which he came; medico-psychological science, the responsibility not more of the individual criminal than of his ancestors.—von Kleinsmid.



crime are significantly related to those now available and verifiable in regard to mental defectiveness, namely, that the proportion of the *mentally defective* to the general population is *about two per cent.* Justice Olsen further says:

"Thus far little or no impression has been made on the static existence of crime by our efforts at punishment and prevention, and one would have supposed that this fact alone would have directed those vitally interested in the subject, such as jurists and sociologists, to check themselves up and cast a critical glance over the past, and into other directions for the future. There were at one time in England, one hundred sixty-five crimes punishable by death, without making any effect on the volume of crime. In turn, maiming, mutilation and branding were practiced, then the idea of adding humiliation was the next invention, and the unfortunates were ducked in the pond in the public square where they also had pillories and whipping posts, or they were whipped through the streets. Burning at the stake was also in usage for certain crimes. The idea of solitary confinement followed; the ball and chain was next added. There appears to have been no conception that law existed for man's benefit, but this view got some recognition in the next period. At this stage a new light appeared probably as reaction to the then-existing conditions, and the idea of *reformation* was introduced into penology. Next came parole, and probation, and yet in spite of all these efforts extending over long years, the percentage of crime and criminals remains static; two per cent. of the general population still are criminals!"

"In view of the comparative failure of our past efforts to suppress crime, of the increasing charge upon the state in taxes for maintaining prosecutions, courts and jails, of the menace to society of the defective delinquent when uncontrolled and running at large, and of the injustice involved in the neglect of the feeble-minded, we must adopt new methods to prevent crime and to care for the mentally afflicted. Since crime and mental disease are so interrelated, we should try the modern methods of the medical profession—diagnosis and prevention, where cure is impossible. As has been said in medicine, the diagnosis is half

the cure; so we hope and feel in criminology that if we can diagnose the cause we will be well on the road to cure.

"Medical science has advanced, but the law has lagged behind. Our judges, unlike those of England, for example, are professionally untrained for their particular positions as a rule. They have little knowledge of psychology, sociology, anthropology or the significance of criminal statistics, and, if we were to judge solely by the legal test for insanity prevalent in most of our States, the medical profession is greatly in advance of the legal profession.

"We are beginning to understand that the unrelenting and retributive idea of "an eye for an eye" has no application to the irresponsible. The idea of punishment for a deed presupposes responsibility. We are learning that many of the criminal insane and feeble-minded on whom legal punishment has been inflicted in our courts were not fully responsible and their punishment did not work their reformation."

These words from such an eminent jurist as Justice Olsen make it plain that courts must begin to take practical cognizance of the fact that our laws presuppose responsibility, that they were made for normal minds, but that as a matter of fact they are constantly and usually applied indiscriminately to irresponsible, abnormal individuals, as often, or oftener, than to those who are normal, except in those rather rare instances where insanity, as interpreted by the law, is so evident that no ordinary jury could fail to recognize it.

Our criminal laws in the main remain unchanged, while biological, medical, and social sciences constantly advance. This is made clear when we stop to consider that while insanity, proved to be present at the time of a criminal act, may be considered as a mitigation of the crime, provided that the individual "did not know the difference between *right and wrong*," yet our laws in most States make no provision for the recognition of *feeble-mindedness* as an equal excuse for abnormal behavior. Incidentally few people have any understanding of the significance of feeble-mindedness or of its frequent occurrence everywhere

in society, and the lack of knowledge of this plain fact is about as evident among jurists as anywhere else.

A recent California murder case presents a clear example of a defective mentality in relation to a criminal act, and the publicity which this case has received makes it worth while to direct attention to the necessity for reform in our criminal procedures, social investigations, and in our educational methods.

In the early morning hours a young man drove up to the Central Police Station in Los Angeles, knocked at the door of the Desk Sergeant, was admitted and while chewing an unlighted cigar calmly and unemotionally admitted that he had killed his sweetheart, and that her body was at that moment in his automobile at the station door. He showed less emotion than the police themselves, hardened as they are by long experience with all sorts of criminal acts. He quietly telephoned his employer what he had done and then recited the details of the crime to the night newspaper reporters.

On a lonely road some few miles distant from Los Angeles, his fiancee had suddenly refused to marry him on the following day as had previously been arranged between them. She had decided, so she had told him, upon a criminal operation and would have nothing more to do with him. A quarrel resulted, and in the defendant's words, "she had a sort of fit, flew off the handle and abused me." The result of it all was that after vainly attempting to quiet the girl, the defendant lost control of himself, drew a revolver from the holster in the pocket of the machine, shot the girl, and then drove aimlessly about for several hours undetermined whether to take her to a hospital or surrender himself to the police.

His confession was childish in the extreme, no attempt was made to avoid responsibility or to shield himself, which a criminal of normal mind might easily have done through the claim of suicide or accident. His responses were short, disconnected and obtained only through the continued efforts and suggestions of the reporters. He was quite unable to present any consecutive account of his actions, and in the words of one of the

reporters, was the least concerned and affected person present in the room.

In a sworn deposition covering four hundred fifty typewritten pages and taken from forty persons who had known him, including his colored nurse, his aunt, his teachers, his various employers, his home-associates and friends, his Colonel in the Army on the Mexican border, his Sergeant, several army privates, and his last employer in Los Angeles, it was perfectly evident to any expert in mental disorders that here was a typical history of a high grade feeble-minded man, one whose intelligence had never passed beyond the eleven year mental level. But it is a remarkable fact that only a few of these persons recognized that this man was feeble-minded. They considered him slow and peculiar, but the true nature of his trouble was unrecognized because he looked normal and in many ways acted as normal people do.

With unusual opportunities for education in public and private schools he had never been able to learn the use of even simple figures any better than an eight or nine-year-old child; he could read and write only with great difficulty, and in general, his educational ability was less than that of a child in a fourth grade of a public school. As a child he learned to talk and walk at a late period, had always been sickly, and had shown little interest or ability for childish play. Later he had always selected younger children as playmates and even as a young adult had preferred to play with children rather than to associate socially with people of his own age. His temperament had always been peculiar in the extreme, giving evidence throughout his entire life of what is called "the shut-in type of personality." He was moody, often sullen, disinclined to associate with others and suspicious. In general his behavior had always been that of an individual afflicted with an unsound mind.

From the time of his experiences in the Army on the Mexican border, where he had been unable to learn any army duties except that of hostler, and, up to the time of his arrest, he had shown plain evidences of delusions of a mild character mostly related to ideas of persecution. Taking all of these facts into



consideration it seemed clear to the experts for the defense that this man was not only feeble-minded, but insane, or at least possessed the "Dementia Praecox" type of make-up.

His history in employment was typical of the feeble-minded, never holding a job long, drifting along from place to place, and from city to city, never doing anything well and always employed at unskilled labor. He read nothing but headlines in newspapers, mostly in the sporting section, had never read a book through in his life, had no special interests of any sort except in the care and use of horses, in which he had a real but rather childish enthusiasm.

He possessed no initiative and could never be depended upon for anything requiring any degree of responsibility. Any specialist in mental defects would unhesitatingly diagnose such a case as that of a *Moron*, or feeble-minded, irresponsible individual, on the history of the case alone, and even without a personal interview, most specialists would also regard him as insane or highly unbalanced. As a matter of fact he scored less than twelve years on the Binet-Simon intelligence scale. By the Army intelligence scale by which nearly two million of our soldiers were classified in intelligence during the war, and in the results of which the Army placed great reliance, he scored only thirty-two as compared with seventy-seven which the average enlisted private makes, fifty which the average child will make on the same test in a fifth grade of a public school, and with 135 to 175 which most officers make.

In this case the alienists on both sides, five in all, agreed that this man was a *Moron* with intelligence permanently arrested at about the eleven-year level while the experts for the defense declared him insane as well as feeble-minded. The prosecution held that a *Moron* knows the difference between right and wrong, and that as the evidence of guilt was clear, and insanity not proved, the accused should suffer the death penalty.

The entire trial hinged upon the question of knowledge of right and wrong, and the presence of insanity at the time of the act committed. Even if he had no greater intelligence than that of a *seven-year old child* and were not insane, the District At-

torney held that he must pay the extreme penalty of the law. In other words, most of our courts permit us to hang children of seven years, for no matter what age a man may be, if his mind is that of a child, *he is a child* as far as responsibility goes.

The defendant was convicted of second degree murder by the jury who claimed that he was responsible for his act, and capable of understanding the difference of right and wrong. Now the knowledge of right and wrong is no real test of responsibility; what is a test, is the ability to *act* on such knowledge. Even young children possess the knowledge of right and wrong, but no reasonable person expects them to always act responsibly. Animals possess such knowledge to some degree, at least by training. The feeble-minded, except the lowest of them, all have some knowledge of right and wrong, but in a true sense they do not possess such knowledge because moral responsibility is based on judgment; and judgment in the feeble-minded is not much developed. Accordingly the feeble-minded cannot be expected to use judgment in respect to moral acts. As a matter of fact, psychologists now recognize that the moral and ethical sense is not much developed until after twelve years of age, although no one denies that children from a very early age possess a theoretical knowledge of right and wrong. The use of the term "right and wrong" in a legal sense is an absolute misnomer. The legal test is, therefore, absurd on the face of it, because it does not take into consideration the inability to act on a theoretical knowledge of right and wrong. It dates back to times when the mechanisms of human behavior were little understood.

The sole test of moral responsibility should be passed upon by unprejudiced experts selected to represent neither one side nor the other, and who should be required to investigate and report upon the facts as they exist in an impartial manner. It has been proposed that a jury and a court should pass only upon the facts of the crime, and a special commission of experts should fix the *treatment*, whether this be death, imprisonment, permanent segregation or hospital care. This would be in line with scientific procedure but it appears to be too radical a measure for our legislators to comprehend. Punishment as such has little

or no place in the consideration at all, a point still ungrasped by the public at large.

Criminals in a large proportion of cases are people with defective minds, and the question of moral responsibility can never be settled by a jury or a judge, for this is as much or more a matter for expert diagnosis as the most complicated case of physical disease. No court would pass upon an obscure case of bodily ailment; yet courts every day do pass judgment without hesitation upon far greater questions of mental disorder and responsibility.

Many good people hold the theory that degenerates are better out of the world anyway, and would apply the Spartan treatment of death. Several eminent judges have recently expressed this opinion to the writers, as well as some clergymen and other citizens. But such good people do not stop to consider what their decision would be if the accused were a member of their own family. The destruction of the unfit is excellent biology, but very bad ethics, and the entire attitude of most of those who hold such theories is strangely inconsistent with their other views of life. Society preserves the degenerates by encouraging, or at least permitting, the mating of the unfit; society, meaning all of us, interests itself not at all in the discovery of the potential criminal before he commits a criminal act. Yet such potential anti-social individuals are today recognizable in early life, and particularly in our public schools, and means are now at hand for their scientific diagnosis.

Society permits the feeble of intelligence, the mildly insane, the dangerous epileptic, and the great hosts of psychopaths or persons with highly unbalanced personalities, who are neither insane nor feeble-minded, but yet who cause as much trouble as any other class of defectives, to mingle freely in life, marry, engage in occupations in which they are sure to fail, become discouraged, and drift into pauperism, prostitution, alcoholism, hoboism, or to become political cranks and assassins, and to fall into a number of other dangerous misfit situations, all without hindrance or protection. But once one of these unfortunates commits an overt act, society calls for blood, becomes righteously



indignant and claims the right to protect itself by destroying the lives which society itself never protected, or in any way attempted to control. This strange fallacy in reason is everywhere present, and is found as often among the highly educated as among the ignorant.

In our courts, jails, penitentiaries and the like, scarcely any better forms of reasoning exist. From twenty-five to fifty per cent. of the inmates of our jails and other penal institutions, as we well know, are feeble-minded, still another ten per cent. or more are epileptic and highly unbalanced mentally; at least twenty per cent. are psychopaths, leaving a possible twenty to forty-five per cent of reasonably normal people in these institutions. These are plain facts which any prison expert will in the main verify.<sup>2</sup> Yet today only a few cities maintain laboratories for the investigation of abnormal behavior; only a few prisons, courts, or jails employ experts for the study of their inmates. Meanwhile the wave of criminality constantly surges on, unhindered and unchanged, and since the termination of the war, with its changed social conditions, has constantly risen higher and higher.<sup>3</sup>

The causes and means of prevention or control get almost no attention or support from those whose business is to deal with criminals. Every year millions of dollars are wasted on the attempt to prevent crime by useless worn-out methods; every year criminals are arrested, fined, jailed, or otherwise punished, and all without appreciable results, for the plain reason that the character, responsibility, and social status of the criminal remains unchanged. As well punish a man with typhoid fever with a jail sentence as to punish a defective criminal; for in the one case we can expect just as good results as in the other. But a typhoid case must be controlled; the well must be protected against the infection; the sick man must be treated

<sup>2</sup> Of four hundred sixteen "first offenses" in the Indiana Reformatory the majority left school at about the fourth grade.

<sup>3</sup> The situation in the United States so far as crimes of violence are concerned, is worse than in any other civilized country. During the last ten years burglary has increased 1200 per cent.—Committee of the American Bar Association, 1922.



and, if possible, the source of the typhoid infection must be remedied. Exactly the same is true of the defective; he must be controlled, others must be protected from him, and the source of his defect must be discovered, and so far as possible eliminated.

The case above referred to had a defective ancestry; he came from a tainted stock, and poor seed always yields a poor fruitage. His defects were obvious in his school life, in his early industrial life, his Army life, and his social life; yet no one offered a helping hand or any restraint. When emotional stress and temptation became great enough, his weak mind crumpled and murder resulted. Charles Oxman, DeWitt, Bundy, Louis Fortin, Harris, the negro, and a number of other recent murderers, all in California, were all mental defectives of one sort or another. Oxman, DeWitt and Fortin were all feeble-minded with minds less developed than that of a ten year old child. Bundy, a high school boy, was a "moral imbecile." Harris was an epileptic and insane man whose criminal tendencies had long been known to the Los Angeles police before his final murderous act. All of these men were hanged. Society never protected them, society never restrained them, society offered no bar to their mating, with its inevitable defective progeny in its wake.

In one hundred cases of defective delinquents whose cases were studied by Dr. Victor Anderson, in Boston, "all showed sufficient deviation in childhood to have warranted an early recognition of their condition and the institution of suitable remedial measures to prevent careers that with reasonable certainty could have been prevented. This particular group was arrested 1,825 times, a not unusual record in such cases.

The futility of employing measures intended for those capable of profiting by experience is shown by the inability of most criminals to profit by what is done for them, and the unflinching certainty with which they return to be handled again and again.

In a study of eight hundred and fifty-eight delinquents taken from the Municipal Court of Boston, two hundred and thirty-one were found feeble-minded, one hundred and four psychopathic, fifty-eight insane, thirty-one epileptic and unbalanced.

And all but one hundred and forty-eight of the remainder defective in some way or another. Less than twenty per cent. could be considered in any sense normal individuals.

Among one hundred eighty-five juvenile delinquents recently examined by the writers in the Los Angeles Juvenile Court, only thirty-eight per cent possessed normal minds, while thirty-three per cent were definitely feeble-minded and permanently arrested with a mental development less than that of a child of twelve years and averaging about ten; yet all of these boys were from thirteen to eighteen years of age. All but thirty-eight per cent were mentally defective in some way or another, and none of these defective children could reasonably be considered morally responsible boys.

Figures such as these are easily duplicated in any court in the country, in any penal institution or anywhere else where delinquents are scientifically studied by mental experts.<sup>4</sup>

The reader at this time may fairly ask the practical question, "What is the remedy for the state of affairs here declared to exist?" The answer is a difficult one and can be given with only a partial degree of satisfaction. If criminals and delinquents have for centuries been misunderstood and left in the main uncured and unreformed, it is scarcely fair to demand an immediate solution to such an age long problem. In some measure, however, the question may be answered.

Granting that many and perhaps the majority of our serious crimes are committed by persons with minds more or less abnormal and that they are, therefore, more or less irresponsible in their conduct; that because of their defects they are unable to compete on equal terms in the world with their fellows, and that they consequently fall easily into criminal ways, it follows that society must recognize this class of people early in life and properly control them before criminal careers develop, for it is

<sup>4</sup> A survey of the Honolulu Juvenile Court made by one of us in 1920 showed 67 per cent. of feeble-mindedness, while a similar survey in the boys' reform school showed about the same per cent. of feeble-mindedness and only ten cases which were normal or within a year of mental normality.

an established fact that over ninety per cent of adult criminals begin such careers as juvenile delinquents. Defective children in our schools must be recognized and placed where they will succeed best within their own limitations for it is from this class that many criminals and delinquents are recruited. At present very little attempt is made to either recognize these children or to give them any special training adapted to their needs when they are recognized.

Dr. Goddard suggests the real solution to this problem when he says, in substance—that the feeble-minded child who is of sufficient mentality to go to the public school, not only can, but will, amount to something when properly trained. But the seriousness of the situation lies in the fact that unless it is very carefully and wisely trained, the child will amount to a criminal, a thief, a prostitute, a drunkard, or some other kind of anti-social being. These facts make clear, says Dr. Goddard, the special problem of the public school in the case of a dull or backward child. These children, says Dr. Goddard, lack the power of abstract thought. They cannot deal with abstractions, hence they can never develop moral principles as such. Fortunately there is one power that comes to save the day,—*the power of habit*. These children, if trained in fixed habits, habits of conduct, habits of health, habits of activity and work, usually become happy, harmless and even useful persons. Neither the child nor his family need to be reminded that he is a defective. We do not say what he *cannot do*, but we constantly impress the fact that there are things that he *can do* and we train him toward these things.

This, of course, means that our schools must abandon the idea of attempting to train these children as if they were *normal*. The training they need is of a practical nature, largely manual and sometimes vocational with the attempt to make them, if possible, to some degree self-supporting in life. Unless this is done, they drift from one sort of inefficiency to another and then almost inevitably enter crime or some other form of degeneracy.

For those who have already passed childhood untrained to meet life, other methods must be pursued. Among these we in-

clude, sterilization to prevent the sure inheritance by their legitimate, or more often illegitimate offspring, of their own defects, segregation on farm or industrial colonies, or employment in life under constant supervision of some sort. What is absolutely necessary is the clear recognition of the fact that the individual is defective, irresponsible under ordinary conditions, and fated to fail under present unfair methods.

When the criminal is of normal mind, society owes it to him and to itself to correct his distorted view-point, and to restore him as rapidly as possible to useful citizenship. Revenge has no place in the scheme at all, and punishment little, if any. The whole thing is a matter of education.

The general reader might possibly gather from what has been said that criminologists favor an easy sentimental attitude toward the offender; that their indulgent view would result in endangering the community to the uncontrolled acts of the criminal to far greater extent than under the present legal and social conditions which have been criticized. Once and for all let us correct this misconception. Criminologists, while not deficient in sympathy, far from maintaining an indulgent attitude, would insist that our laws while they must be more justly and intelligently administered should protect society to a far greater extent than they do at present. In many instances they would insist that even minor crimes often point to mental conditions which make life segregation absolutely necessary. Where the law would impose only a mild punishment, a fine, or a short sentence, criminal experts often recognize incurable, uncontrollable, irresponsible conditions. Where the court sees only criminal behavior in which it now assumes that punishment will act as a cure or as a deterrent to similar crimes in the future, the criminologist looks to the underlying defect and seeks to remove or permanently control it.



## CHAPTER III.

### PSYCHO-SOCIAL ASPECTS OF CRIME.<sup>1</sup>

Criminal Sociology comprises a study of the various social factors which contribute to the making of criminals, and the various agencies which have been established in the cause of crime, its control, cure, and prevention.

"The study of crime has great sociological significance. It furnishes one of the most striking illustrations of the relation between the individual and society, and the conflict between individual and social interests. The penal treatment of the criminal is an example of the most drastic form of social repression."

Aschaffenburg<sup>2</sup> groups the causes of crime under social and individual and proceeds to discuss the many different factors under each. For example, under social causes, he includes such factors as season, race, religion, city or country residence, occupation, customs, alcohol, drugs, prostitution, gambling, economic conditions, social status, and the like.

Under individual causes he includes such factors as parentage, training, education, age, sex, domestic conditions, physical and mental characteristics and mental diseases. From such a classification it at once appears how difficult it is to establish divisions that are mutually exclusive. These divisions constantly tend to overlap.

Some authors on criminology regard the social factors as chiefly responsible for crime, while others, represented by such writers as Garofalo, hold that "criminal inclination always remains the same, and it is only the manner in which it finds expression that differs." Aschaffenburg thinks that "the truth probably lies somewhere between these two extremes".

In this brief section, while some of the principal social factors of crime and its cure, prevention, or control are discussed, **it**

<sup>1</sup> By Professor Robert H. Gault, Northwestern University.

<sup>2</sup> Crime and its Repression.—Aschaffenburg.

is obviously impractical to treat the subject very comprehensively.

Criminal sociology is concerned first with the control of the conditions in the midst of which children and adults grow and live and work, in such manner as to prevent the development of delinquents and criminals, and second, with the organization of institutions for the protection of the normal community and for the rehabilitation, reformation, or re-education of delinquents, to the end of reinstating them as normal members of a community, whenever this is possible, or with humane measures for control, whenever this is impossible.

This means that the study of criminal sociology is a study of education, not of education solely in the sense of the schools, but in the sense of a human developmental process as facilitated by all forms of social co-operation and organization, or retarded by the lack of them. The identity of this subject with that of education in a broad sense suggests the approach from the side of the mental and physical constitution, for conduct is a resultant of innate and acquired weaknesses of mind and body; of capacities, specialized abilities, purposes, dispositions, moods, acute emotional attacks, unconscious complexes, neuro-pathology, and the like, all of them played upon by an infinite variety of stimulations and situations from an infinitely varied assortment of environmental circumstances.

It is obvious that the same set of stimuli or circumstances will not, in the long run, elicit the same behavior on the part of a feeble-minded or otherwise defective person as on that of one who is of normal make up. It is equally true, as long as it is our object to reinstate in normal social relations the largest possible number of juvenile and adult delinquents, that it will be necessary to fit out institutional and other treatment of the offenders to the various types of delinquents who may be found from time to time. In other words, criminal sociology must wait for the data of criminal psychology, of psychiatry and neurology. The student of prevention, control and correction must obtain from other specialists a clear conception of the kinds of individuals with whom he is concerned. He must know these people precisely for the reason that the merchant must know the

characteristics of the people with whom he seeks commercial relations; that is, in order that he may intelligently arrange his organization, display his wares, and present his arguments to the end of inducing the prospective customer to purchase.

*Classes of Offenders From the Psycho-Physical Standpoint.*

In other chapters of this book are to be found discussions of investigations into the nature of offenders from several points of view. It is sufficient to mention here the several classes considered from the general points of view of mental and physical health.

(1) There is a proportion of criminals and juvenile delinquents who, in point of mental and physical health, are fairly considered as normal individuals but who, through force of untoward circumstances, perhaps long continued, have developed unsocial dispositions, just as many of us in other circumstances develop professional dispositions. They are industrial misfits, they are without a trade, they think of themselves as underdogs, or as the prey of wolves, and they cherish bitterness and sullen offishness towards society which, by the eternal law of compensation, or reciprocity, is, in their judgment, their legitimate prey.

(2) There is a considerable percentage of feeble-minded in the criminal and delinquent population. These people, as is well known, are by nature of a low grade of mentality and they are incapable of such development as will bring them into self-sustaining adjustment to normal community life.

(3) Distinguished from the preceding there is a group of mentally diseased and sufferers from psychosis (insanity), in which, under proper hospital treatment, there is possible a minimum amount of salvage. In many instances the afflictions of members of this group are traceable to physical ills which modern methods of treatment are able to correct in whole or in part.

(4) Finally, there is the less well defined group known as the psychopaths. Here are found many of the compulsion neuroses. It seems that many cases of dipsomania, kleptomania, and hysterical amnesia, as well as other less obvious functional disorders, also fall within this group. They are unstable, easily suggestible and hence undisciplined.

*Factors in Prevention of the Development of Delinquents.*

## THE HOME.

The home is the first point of contact with the juvenile. It occupies a vantage point because it offers the first impressions for good or ill to the plastic organism. But ignorance, depravity, depth of poverty, and the broken home, one or all of these factors may make it impossible for the home to do its best work. In such cases it must be supplemented by act of the state or by private institution, always with an eye to the maintenance and perfection of the home itself. This supplementation is already being effected in a variety of ways, through the agency of private institutions, such as the charities, and by the state represented in the Juvenile Court, in its diverse interests. For instance, the Mother's pension, while it is not invariably under the management of the Juvenile Court, is administered by the state. Its object is to protect and to provide normal home and school surroundings for the children of otherwise unaided but worthy mothers who, without aid, would be compelled to work away from home daily, and thus deprive their children of normal home life to the injury of the state. The theory is that public support of the crippled home is in the interest of the whole community, as well as of the individuals immediately benefited; that it is a means of supplying healthful stimulation to plastic natures to the end that such reactions may be induced repeatedly as will eventuate in dispositions of the sort that characterize the matter-of-course good citizen.

The first Mother's Pension act was created in 1908, by Missouri. Since then California, Oregon, Washington, Idaho, Utah, Nevada, Arizona, Colorado, South Dakota, Minnesota, Nebraska, New Hampshire, Iowa, Wisconsin, Illinois, Michigan, Ohio, New York and Tennessee have adopted similar laws. In all these states excepting Colorado a condition of poverty in the home must obtain before a pension can be secured. In Colorado the law is liberally construed to apply to the "protection of the child, the home, and the state, and in the interest of public morals, and



for the prevention of poverty and crime." In that state, as in Italy, France and Germany, the emphasis is upon the development and maintenance of healthful motherhood and childhood to the end that other worthy ends may be attained.

### SCHOOL TRAINING.

The public and private elementary and higher schools, reaching as they do practically the entire population of school age, may be powerful preventative agencies particularly because of their extended application.

It is not a defensible statement that the schools prevent delinquency and crime merely because they are the means of placing a few of the tools of civilization into the hands of succeeding generations. On the whole, the education of the schools cannot be relied on in itself to prevent the development of criminals. The nature of the crimes committed by the schooled elements in the population differs from that of the crimes chargeable to the unschooled portions of the community. We are reminded that general education raises the level of all and that consequently individual, economic and social differences in the population are carried upward with that level. This is to be said, however, that general education does open the eyes of those who enjoy it to possibilities of social adjustment that otherwise might have escaped attention. In this manner it becomes, in individual cases, a preventive of mal-adjustment such as often is, at any rate, the inciting cause of crime.

Much may be expected of the individualization of education, by which we mean the fitting of educational devices to the special abilities and natures of individuals and groups. This naturally suggests the prevocational school and the vocational high school. Such institutions have been instrumental in winning the interest and awaking the healthy ambition of many near-incorrigible and apparently backward children and youths from which groups, as experience shows, the ranks of the criminals are largely recruited.

The reports of the Lane Technical High School in Chicago, among other institutions of the sort, contain descriptions of

numerous cases of pupils who, because of backwardness and apparent incorrigibility, were undesirables in the grades, but who, in the technical school, took a fresh start and went ahead so briskly that in due course they were not to be distinguished by class room and laboratory performance from their fellows whose course had been one of normal progression. Similar evidence is available in the experience of the prevocational school at Cleveland, Ohio, to take an example, and the inference we believe is justified that such institutions as these do contribute immeasurably to the normal social adaptation of many youths of somewhat specialized capacities and thus prevent the development of many a delinquent career.<sup>3</sup>

#### THE SCHOOL CLINIC.

But it is not alone in this manner that the school may become a matter for consideration by the student of the sociological aspects of criminology. No other institution occupies such a position of advantage as the schools for separating, at an early age, the feeble-minded and the otherwise hopelessly defective from the normal members of the school population. Under a suitable system of co-operation among the schools and other institutions, it is conceivable, and probable, that in the course of a generation the community at large could be completely freed from the menace of the feeble-minded. The situation calls for the development of devices within the school system for the expeditious discrimination of types; and already a fair beginning has been made in that direction.

The first essential is the development of the Child Study Department, or the Bureau of Research, or the Psychological Laboratory or Clinic—whatever name may be given it—within the school system to which every backward or troublesome pupil may be referred for examination the moment he becomes a problem to his teacher. Preferably the laboratory should be so equipped

<sup>3</sup> It has been discovered that many pupils of rather low natural intelligence often do as well or better than normal pupils in some kinds of mechanical work.

that it may be able to make repeated surveys of the entire school population. Having made its diagnosis this laboratory should have authority to prescribe and require educational treatment. It will find its usefulness seriously curbed unless it can command recognition for expertness in education in all that the word implies. This is to say, that it must have large powers in the making of curricula, especially for special classes and special schools. It must be able to require special treatment in the regular schools whenever, in its judgment, it may be necessary. Such broad powers have been conferred upon the laboratory in the Oakland, California system, and the plan meets with approval. Among the many school systems that maintain facilities for such laboratory work, this is, as far as we know, the most liberal. Los Angeles has a somewhat similar system and in the States of New Mexico, Wisconsin and New York the appointment of State Psychologists provides for a large power of adjustment.

Experience proves that this scheme will detect the gifted pupils, reclaim many who are backward in the schools, and relieve the normal pupils of much of the drag of group work. At the same time, as a matter of course, the school authorities and the community are having pointed out the weaklings who are likely to cause trouble, and they are being put on their guard. The recognition of the brilliant pupils and their advancement is just as important.<sup>4</sup>

But the working out of the plan demands not only a somewhat more diversified equipment with special schools, including parental schools, than most communities possess, but it calls also for a thorough-going commitment law that avoids certain pitfalls that are found in many such statutes.

#### THE PLAY GROUND.

No discussion of prevention could be complete without reference to the contribution of the playground in this relation. Whatever relieves the abnormal tension under which children live in the congested districts; whatever makes for relaxation without recourse to stimulants; whatever accomplishes these things for the youth in our city streets, makes for normality. According to

<sup>4</sup> The problem of the gifted child is receiving particular attention in researches at Stanford University.

a report of the South Park Commissioners in Chicago, juvenile offences fell off by one-third within the year following the opening of the playgrounds in the stockyard district under their jurisdiction.

On the other hand, idle recreation aided by stimulants increases the volume of crime. One of the Chicago police captains reported that in his precinct immediately after the Sunday closing of saloons went into effect Sunday arrests diminished by 40 per cent., and that the Monday morning complaints made at his office by women whose husbands had beaten them were reduced by half.<sup>5</sup>

### *Commitment of the Feeble-Minded.*

Adequate provision must be made for commitment of the feeble-minded of all ages and, while proper safe-guards are provided for the protection of the individual, sharp restrictions must be placed upon the freedom of their release.

Assuming that 2 per cent. is the proportion of the feeble-minded in the general population, the proposal to commit all such persons to institutions fairly staggers the imagination. It should be borne in mind, however, that great numbers of these people are able, under proper direction, to support themselves by useful labor, and that it is a matter, therefore, of providing industrial institutions and farms for this class such as will afford them an opportunity. To dispel any doubt on this score that may exist, it should be sufficient to recall that many outside of institutions in our neighborhoods are supporting themselves today. This may seem a dangerous admission to make when one is speaking for the commitment of feeble-minded, but it is hardly so dangerous as it seems, for the public mind is well prepared, in our generation, to accept the statement that at best the feeble-minded, under the very casual direction of the normal community, are very ineffective workers and that under skilled, intensive guidance their effectiveness may be greatly enhanced. Furthermore, thanks to the labors of investigators in work of the Juvenile Courts of our country, we have generally come to understand

<sup>5</sup> Later data since the Prohibition law enforcement is not available to us.



that the feeble-minded are a source of danger to the peace and good name of a community.

At the same time that we provide adequately for commitment of this class, we must make provision against their too easy release as has been suggested already. The investigation conducted under the auspices of the Chicago City Council Committee on Crime in 1915 brought forward some interesting data on this point. At that time Illinois was operating under an old commitment law which placed very loose restrictions upon the release of the feeble-minded from the state institutions. The history of such cases subsequent to their release leaves no doubt that they had better have been retained under institutional care. The revised law in that state, and in at least a dozen others, now makes release impossible until at least a year subsequent to commitment, and then the whole case must be reopened before the committing court co-operating with the medical and other officers of the institutions.

The problem of the providing institutions for the feeble-minded is complicated by the fact that the members of this class, like those of any other group, are not cut to a pattern. Their needs are not uniform and the methods by which they may be successfully handled are not uniform. Some variety in types of institutions, therefore, is indicated. As soon as such provision is made, an impossible burden is placed upon the judge who, already overcrowded with details, must decide to which institution each individual must be sent. It would be altogether futile for him to attempt such a decision without the co-operation of a psychopathic laboratory, or at least an expert in psycho-pathology attached to his court or within call. But even such an expert would undoubtedly plead that the necessarily mechanical procedure of the court places it beyond his reach to attain even reasonably satisfactory exactness in the diagnosis of the finer points of character and of vocational fitness such as would seem to be involved in a serious attempt at the selection of one among several alternative methods and places of treatment.

The Ohio law relating to the commitment of juvenile delinquents obviates this difficulty, and something like its provisions, in our judgment, should be made in every state to control the

commitment of all feeble-minded, delinquent and non-delinquent, all of which is within the scope of our discussions at this point. Every juvenile under this law, whether abnormal or normal, who has a second time or more frequently been found delinquent may be placed by provision of this law into the hands of the Bureau of Juvenile Research at Columbus, which is equipped in all respects for making thorough diagnosis. There the youth is detained until the investigators are satisfied that they understand his present condition and his possibilities; whereupon they are authorized to send the offender to such institution in the state as, in their judgment is best suited to the needs of the particular individual. If further experimentation is desirable they may shift him from this institution to another. In no case can he be released from the wardship of the state before a year shall have passed subsequent to commitment, and then only by reopening the whole case before the committing court. The Bureau referred to here is a clearing house for all juvenile delinquents including the feeble-minded. It is but a little step from this to a clearing house for all feeble-minded whether delinquent or not, which is our primary interest at present.

It is probable that in the course of time we may find it possible to place less stress upon the institutional treatment of this class than we are doing at present. In the interest of honesty we must admit the probability even while we are facing the out and out necessity for more institutions in most states, if not in all of them.

An alternative to the institutional treatment of all feeble-minded is suggested by the well known fact that not all of this class are socially dangerous excepting in the sense that they may leave behind them a tainted progeny. Estimates on this point are manifestly loose. Perhaps not more than 25 per cent. of all feeble-minded are dangerous in the sense that they are likely to commit acts of violence against person and property. If we were doing our utmost in the early school years and in the juvenile and other courts to find the feeble-minded and among them to distinguish those who will develop into dangerous characters, we could easily provide institutional treatment for the dangerous 25 per cent. of the total. Then we could probably de-

velop a system for caring for the remainder analogous to the out-patient work already organized in some of our psychopathic hospitals. This would involve the employment, perhaps by the state, of a sufficient number of nurses, tutors, directors—whatsoever they might be called—who would be responsible for the oversight of such persons of feeble mind as might be assigned to them precisely as the probation officer in the court is responsible for the oversight of a group of probationers. Such an officer, it goes without saying, must have special knowledge of the nature of this group and also of the best means of their education. These officers will always find it to their advantage to keep in touch with the bureau of vocational guidance in the public school system.

### *Sterilization.*

Another proposed means for dealing with the problem of the feeble-minded is sterilization. This method, if carried out consistently, would at least eliminate the progeny of such tainted stock in the course of a single generation and within the span of that generation is would probably eliminate some offenses of personal violence such as are instigated by the sex impulses, at least.

There has always been some uncertainty, however, in making a diagnostic distinction between native feeble-mindedness on the one hand and acquired defect resulting in retardation on the other. That uncertainty may always obtain. The distinction referred to is an all important one to make when we are considering sterilization as a practical measure. The theory is that only those who are feeble-minded by heredity can possibly transmit their defect to their progeny. Furthermore, it is urged that we as yet know so little of the laws of inheritance from feeble-minded or from any other stock that we are not yet justified in moving to adopt sterilization as a general method of procedure. We must always bear in mind, too, the possibility of an improvement in the stock by crossing. This seems to be indicated in the study of the Jukes family in 1915.

Even if the foregoing objection to the adoption of sterilization as a general method did not obtain there would still remain the obstacle that is presented in the state of public sentiment, which, on the whole, is inclined to look on the method as "cruel and unusual!" To this is probably due the almost total disuse and early death of one sterilization law after another in the United States within recent years. Many physicians, it should be said, have performed the operation with the written consent of the patient or his guardian which was obtained merely by persuasion. This plan could be much extended with great advantage in many cases.

The whole subject has been thoroughly discussed in the reports of the Committee on Sterilization of the American Institute of Criminal Law and Criminology. These reports have been published in the Journal of the Institute. Many experts are of the opinion that sterilization should be widely used among the mentally defective, and some other degenerate groups.

### *The Insane, Epileptic, and Psychopaths.*

It is impossible to make a satisfactory estimate of the percentage of the epileptic, insane and those of psychopathic personality in the general population. If we were to form a casual judgment based upon the population of our institutions for the insane, we should conclude that it is considerable. Certainly there is a much higher expectation of a delinquent career among these people than among the normal members of a community.

In his study of one thousand consecutive recidivists in the Juvenile Court of Cook County, Illinois, Dr. Healy found 7½ per cent. of epileptics.<sup>6</sup> Dr. Paul Bowers found in a study of 100 adult recidivists at the Michigan City, Indiana, prison that almost all of them were suffering from some form of mental alienation. These were all prisoners who had served at least four terms of imprisonment. This was the principle of selection employed by Dr. Bowers. The cases were taken consecutively from

<sup>6</sup> The Individual Delinquent.—Healy.



the prison records. Similar data are afforded in the report of the Chicago City Council Committee on Crime, and in an article by Doctors Murray and Kuh in the *Journal of Criminal Law and Criminology*, in both of which places emphasis has been placed upon the insanity of recidivists. The very lowest estimate of the frequency of insanity and epilepsy in penal institutions is greatly in excess of the highest estimate for the general population. This fact indicates a degree of liability of the insane and epileptics over and above the normal, to drift into delinquent careers.

We are at greater disadvantage in estimating the prevalence of the psychopathic constitution in the normal community. Each person considers his neighbor more or less hysterical. Altogether this class undoubtedly comprises a multitude in every state. They are all suggestible, easily led, and as compared with the more sturdy elements of the population they are unable to resist for more than short periods, at best, the impact of misfortune. This group is undoubtedly the great source of dipsomaniacs and kleptomaniacs and the histories of cases of paranoia and dementia praecox, who figure so largely in criminal statistics, would suggest that they too, in their earlier manifestations, are hardly to be distinguished from these classes.

### *Mental Hygiene.*

Dr. Adolph Myer has recently discussed the histories of cases of paranoia to point out what they teach regarding the prevention of insanity. Unless we have been grossly misled, the prevention of insanity will in a considerable measure prevent crime. The interest of mental hygiene brings us once more to the home, to the school, and the surroundings which together are responsible for dealing with those supersensitive children who have a psychopathic ancestry, are themselves of unstable condition, and who invariably break rapidly under the strain which arises from being misfits, industrially or otherwise. For the prevention of the development of criminals it is particularly important that such youths as these be not only protected, but that they be built up in health of mind and body; that good habits be developed and firmly knit; and that finally they be fitted into an occupation

adjustment. These people easily become resentful toward society and regard it as their rightful prey. One of the hopeful signs of the time is the activity of the National Mental Hygiene Association and its various state branches which are awakening a new interest among parents, teachers and the public at large in the prevention and cure of mental disease.<sup>7</sup>

On the preventive side the student of Criminal Sociology will be interested in securing relief for the youth in our city streets from the conditions that are described in "Boyhood and Lawlessness and the Neglected Girl", and volumes of this sort that describe the horrible vice-breeding conditions in the congested back-quarters of our large cities,—conditions in the midst of which thousands of susceptible children grow up annually. It is impossible to put normal children into surroundings such as those described in the West Side Studies in New York City without developing more than our quota of psychoses and otherwise warped personalities.

#### *The Police.*<sup>8</sup>

The police are almost universally regarded, not as an institution for the prevention of crime and the prevention of the development of criminals, but for the apprehension of criminals once crimes have been committed. Traditionally they are looked upon less as friends and benefactors of the public than as officious representatives of the law who are to be tolerated as a necessary evil and regarded even as suspicious characters. This attitude on the part of the public is one with which the sociologist has to deal. It has its root in the traditional individualism of American life that brooks no interference or threat of interference with individual liberty. It has undoubtedly reacted unfavorably upon the morals of the police forces and has helped to make the police themselves consider their offices more as jobs than as opportunities for constructive public service. No group of citizens or officials in our cities is better acquainted than the police with the sources of crime and with the weak characters who commit crime or who are on the verge of a criminal career.

The police systems in Berkeley, California, under Chief Voll-

<sup>7</sup> See Signs of Sanity: Stewart Paton, 1922.

<sup>8</sup> See American Police Systems: Fosdick, 1922.

mer, and in New York, under former Police Commissioner Woods, have aimed to reap the full advantage from the strategic position of the police. In each of these systems the ideal is both to protect the community against the lawless and to prevent the youth, the weak and irresponsible, from developing into criminals.

It was to this end that Commissioner Woods organized the Junior Police among the boys in a few congested precincts in New York City by which the boys were made collaborators with the police. They assisted in maintaining the sanitary conditions in their precincts, in looking after troublesome boys and in other minor respects they were given responsibility for public welfare. They were organized in each case under the captain of the precinct. Such a movement as this had previously been attempted in Toledo. Its success always depends upon the character of the men behind the organization to which the boys are responsible. If they understand boys, and are sympathetic, the Junior Police will be productive of immeasurable good.

Not only in this manner did Commissioner Woods seek to prevent the development of criminals. He established a psychopathic laboratory at police headquarters in which mental and physical examinations were made of persons under arrest with a view to acquiring scientific data that should be of practical use in subsequent dealings with the offender. But this laboratory was not only employed in relation to arrested persons. The police were given such elementary instruction as would enable them while on their beats to single out those who are probably suffering from some such serious mental and physical defect as to make them socially dangerous. The officer was then to send the sufferer to the laboratory for examination. The laboratory in its turn would be able in most, if not all, instances to find hospital accommodation for those who need it and commitment for those who could not safely be at large. This unusual police work should not be interpreted as undue interference with individual liberty, but as a means of protection for the irresponsible on the one hand and for the entire community on the other. In the New York Police School courses of instruction were given to at least



a selected group of officers to develop in the force the ideal of the larger usefulness of the force.<sup>9</sup>

In the Berkeley system under Chief Vollmer, is found the best illustration in America, perhaps, of what may be done to make the police force a constructive power for social welfare. A psychopathic clinic is conducted under the auspices of the department through which is obtained the necessary psychiatric data concerning offenders and to which parents and teachers are encouraged to send their problem cases for examination and advice. In this connection, the Berkeley Police has the altogether unique distinction of having a chief in whom the community has such a high degree of confidence that it is not unusual for parents and teachers to take to him personally their troublesome cases and to get his advice concerning them. In this system is a police school that has no peer in America. Twenty members of the force of twenty-eight attend this school each evening of the year from four to six o'clock, and on Friday evening the entire force from four to five o'clock attends a discussion of some subject that is pertinent to police work. But one subject at a time is undertaken in this school and the entire curriculum is designed to require three years for completion. The emphasis is upon those sciences such as physiology, hygiene, chemistry, psychology, sociology, and others which will help the force to grasp the larger bearing of their daily work.

This is not to say, however, that there is any less emphasis upon the policeman as a detective who must apprehend criminals. The effectiveness of the police system in Berkeley is attested not only by the fact that a spirit of co-operation exists between the police and the community but by the statistical showing that while the population of Berkeley has doubled, the volume of crime has been reduced by approximately one-half and that at the same time the police force has been reduced from 32 to 28. During this period also the number of special police, privately employed, has been reduced from 13 to 4. One meaning of these facts is that wisdom does not rest solely with those who

<sup>9</sup> If such a system were in force in our large cities a very high proportion of crime and delinquency would quickly disappear. Criminals in the making are everywhere observable in our city streets.



would make the police merely an impersonal military organization for the purpose of repressing crime in the narrow sense of repression.

### *Immigration.*

The immigrant population has repeatedly been charged with responsibility for crime in the United States out of proportion to their numbers as compared to the native population. That this is unfair has been well proven in Miss Edith Abbott's section of the report of the Chicago City Council's Crime Committee already referred to. This, of course, relates only to Chicago, but that is a large immigrant center. Similar data has been set forth by Horwicz for the state of New York, and Miss Kate Claghorn in her report to the American Institute of Criminal Law and Criminology says: "The native born seem to have a greater tendency to come into conflict with the law than do the foreigners." This report is based upon an intensive study of but 213 cases of foreign born prisoners in Sing Sing Prison. The number is too small for large generalizations, but the report is nevertheless confirmatory of the point in question.

The work by Miss Edith Abbott and Mr. Horwicz indicates further that the children of immigrants supply more cases of juvenile delinquency than should be expected of their number as compared with the number of children of native parents.

This places the responsibility for prevention of crime and the development of criminals where it belongs. We must prepare the conditions in the midst of which these children—and their parents, too—are living so that their reactions to these conditions shall little by little establish the dispositions of good citizens just as we try to arrange the conditions in the medical school, so as to assure the development of an ideal professional disposition. It is a matter of education for good citizenship. At all costs immigrants must receive a good impression of American fairness and good will when they arrive. Nothing

must be left undone to make the conditions of labor and of living in general favorable.<sup>10</sup>

Special provision must be made from the beginning of their life here to teach even the adults our language and customs. They are naturally slower than their children to take up our customs even though they may early acquire a favorable disposition toward our civilization. One result of this is that their children become impatient with their "old country" parents and drift away from parental restraint with unfortunate results. This possibility emphasizes the need for the most diligent study of the problem of Americanization and the most scrupulous practice of the approved means. Social settlements in large centers through their day and night classes for adults and children are doing good service in this direction and the schools are more and more being opened in the evenings to provide attractive club rooms and places of instruction for these classes.

<sup>10</sup> The natives of certain European countries which have the best record for law observance when settled here became the most lawless of all.

## CHAPTER IV.

### PSYCHO-SOCIAL ASPECTS OF CRIME.

*Continued.*

#### *Institutional Treatment of Offenders.*

The best treatment of offenders, whether within the prison or other place of detention or outside of it, is dictated by very simple principles that in other relations are accepted without question.

These principles, to speak negatively at the outset, are not theological nor metaphysical. It is no longer acceptable that the offender is possessed by an evil spirit that can be frightened away by inflicting pain upon his body; nor that society must be considered as an avenging God in inflicting bodily suffering upon him; nor yet that merely shutting him away from normal association with others gives him an opportunity for reflection that will bear fruit in repentance and reformation.

Positively the principles upon which we must work are those of education in general. The object to be kept in view in all our dealing with offenders is to reinstate as many as possible in normal social relations. This, in many instances, involves reformation of character, acquisition of skill in trade, and of a benevolent attitude toward the community rather than a malevolent one. In all cases when this has been accomplished, protection of normal society is assured.

#### *Psychopathic Laboratories.*

Application of these principles and aims places upon us the burden, as has been shown hitherto, of determining the traits of the offenders with whom we are dealing. When the process of discovering the socially unadjustable shall have been thoroughly organized in our schools, (after the manner discussed in the pre-

vious chapter), and in full time boards of health in such manner as has been described by Dr. Victor Vaughan, then as has been said hitherto, we shall recognize the members of the army of unadaptable ones before they become offenders, and make a proper accounting of them by the application of our commitment laws.

But for a long time in the future, perhaps always, we shall require equipment for psychopathic and other examinations in the courts, both in those for juveniles and in those for adults. And always, such equipment will be needful in our prisons and reformatories for, as Doctors Glueck and White have shown, psychoses develop in these institutions. They are "defense reactions" and when they appear, special treatment is indicated, the nature of which the experts must be called upon to describe in each particular case. Furthermore, it must be borne in mind that the prison and the reformatory are institutions for intensive education—or re-education. The experts, therefore, will be required to determine the course of treatment for even the normal element of the prison population.

### *Temporary Places of Detention.*

The penal treatment of both juveniles and adults begins in reality, though not technically, with arrest and detention while awaiting a hearing before the court. In the ideal system, therefore, here is where the course of re-education must begin for many.

It goes without saying in our generation that juveniles and adults must not be detained together. The place of detention for children must be as homelike as an institution can be. There must be incorporated in it a school equipped with the most skillful teachers that they can afford. The most undesirable sort of detention home for juveniles, the sort to be avoided always, is described in the Springfield Survey by the Russell Sage Foundation. On the other hand, the homes for juvenile detention in Los Angeles, Oakland and San Francisco have much in them to recommend them for a place in the uppermost section of the hierarchy. The best place of detention with its school, opportunities



for play, good food, and first class sanitary arrangements in detail, together with a wholesome official personnel about the place will go far toward creating a receptive attitude toward other influences that will come to the youth in the re-educational process. Nothing in this is lending countenance to weak sentimentality. The entire procedure must be as vigorous as military discipline without being military. There is no royal road to education.

This is the place to examine into the mental and physical condition of each alleged offender. A notable illustration of the helpful development of this work is to be found in the Los Angeles Detention Home and in the Detention Home in Chicago.

In our judgment these places of detention should be organized and conducted under the authority of the Juvenile Court and the laboratory experts as officers of the court, although local conditions may determine a better policy.

Of next, if not equal, importance is the detention of adults who are awaiting trial. The population of our county jails appears to me, in the main, of this class. This, at any rate, has been shown by Miss Edith Abbott to be true of the Cook County Jail in Chicago. An unjust stigma is shown to attach to a very large proportion of the people who are thus detained in this institution. Subsequent events have shown that many are innocent of the charges against them. During 1913 at least 280 persons were confined in the Cook County Jail against whom no bills were found. Of these, 109 were held for periods ranging from four to eight weeks.

Furthermore, because our cumbrous court procedure keeps prisoners on the waiting list during an unreasonably long period, they are unable to earn for their dependents, if they have any, and it is reasonable to assume, judging from a study of the compensation of prisoners' labor to be referred to later, that women and children at home are pauperized and driven to delinquency as a consequence while the burden of charitable institutions is unnecessarily increased thereby.

No doubt many persons under arrest must be detained while awaiting trial, but in their cases the same general principles apply as in the case of juveniles. At the same time the question insistently arises whether a great host of adults under arrest can-

not be safely let go on their own recognizance to appear in court on a certain date, or when summoned. This would at least leave them free to earn for themselves and their families and protect them against a certain deteriorating influence among questionable characters in detention. Something closely analogous to this called "temporary probation" is practiced for example in the Domestic Relations Court in Chicago.

The tendency of the times in the matter of the treatment of juvenile delinquents is in the direction of the application of the principles already set forth. Under the Ohio law, for instance, as already has been pointed out, juveniles who have twice or more times been found delinquent by the court, are placed in the hands of the Bureau of Juvenile research which determines the characteristics of each individual and makes disposition of him in the light of the best obtainable scientific data. In the case of first offenders, at any rate, the tendency is away from institutional commitment and in the direction of home finding for those admitted to probation. This is clearly the case in Chicago as shown by the 1916 and later reports of the chief probation officer of the Juvenile Court of Cook County. Assuming that good homes can be found, this plan assuredly supplies the best conditions for stimulus and normal response. Even greater is the tendency toward maintaining the home where it is at all possible to do so in the interest of the children. This involves finding suitable work for those who are of working age, appropriate supervision and even school training, in the evenings if need be, for probationers in order that they may have this additional assistance in the matter of social adjustment.

### *The Prison.*

Even the plan of the prison as a piece of architecture may produce a psychic reaction that the student of criminology must consider. Whatever in this plan favors the development of a hopeful, benevolent disposition—a disposition to co-operate with others in a normal community rather than a resentful state of mind and an attitude of opposition—that we will select in preference to others.

The underground prison at East Granby, Conn., that served the state of Connecticut until 1827 and in which by day men were held in the blacksmith shop by a chain and an iron collar around the neck, as well as by a chain from the anvil to the prisoner's waist belt, had nothing to recommend it from this point of view. Very little can be said for the old Pennsylvania prison construction that provided only solitary cellular confinement for each prisoner. The "Auburn System" providing solitary, cellular confinement at night and congregate living at work was a step in the direction of the ideal. The provision of complete sanitary arrangements in our prisons with as great care as they are provided in any other state institutions is another step in the right direction.

In this connection it is appropriate to think of the construction of the cell block. It has been customary to build the cells with a rectangular enclosure leaving a wide space between the cells and the outer walls. There is, therefore, little direct light and ventilation. In 1910, Mr. John L. Whitman, then and until recently superintendent of the House of Correction in Chicago, completed (incidentally with prison labor) a cell house with outside cells. There is a direct ventilation of each cell by way of a window through the wall. From the front of each cell the occupant looks out on a court in the center of the building where the meals are served. The objection to this construction made by the ultra-conservative prison officials and architects is that it affords a too easy means of escape. The fact is that in Chicago there have been, according to Mr. Whitman's statement, no more escapes from this house than from others, and that the health and behavior of the men confined in it have been better than in other houses of the same House of Correction. The structure, therefore, is justified as contributing in its way toward the attainment of the great end of prison life.

In recent years there have been so many successful experiments with plain, inexpensive, but comfortable buildings, even without the surrounding wall, as at Occquan, Va., and other prison farms, that we have properly come to be very suspicious of the magnificent piles of brick and stone and reinforced concrete with their massive doors of steel, their nice mechanical devices for

spying on the prisoner and their electrical devices for warning the office of misbehavior within the walls. It is all grand and impressive to the outsider, but the insider needs for his own good and for the advantage of the community in which he will later live the fullest responsibility for his own management that he can possibly live up to.<sup>1</sup>

This suggests that the best prison construction will allow opportunity for graduation of prisoners from one class to another—from one building to another; the buildings being distributed over a considerable area. One of these should be equipped as a receiving department in which all new-comers are kept for a minimum period and from which the most apt are shortly returned into the next division and in due course to the top where a high degree of freedom and of responsibility is allowed. The institution will include recreation fields, hospitals and schools, shops, dairies, barns and farms. Experience with penal farms and shops would indicate that such an institution may be not only largely or entirely self-supporting, but that it may also be an educational institution of the highest order for the special purposes of reconstruction.

### *Prison Labor.*

Prison labor, to be constructive, must be more than merely a device to keep prisoners physically active. Merely moving a pile of stones from one side of the yard to the other and back again, or breaking off weeds in the garden so there may be a crop next day, is not labor of the sort that fits into our ideal of prison management in all its details, as contributing toward the reconstruction of the adaptable, and the protection of society by that means. One must have the consciousness of working toward a desirable end and without interference with the rights of other people and without imposition upon them, in order that labor may have constructive value.

<sup>1</sup> The Territorial Prison in Honolulu furnishes one of the best illustrations to be found of reasonable freedom, sanitary perfection and the encouragement of self-respect.



*Contract Labor.*

The contract system of prison labor formerly prevailed almost exclusively in our prisons. There are several objections to it as urged and as formerly conducted: (1) The foreman whose primary interest, from our point of view, should be to teach the prisoner a trade, and in general to direct an educational process, is employed by the contractor and his primary interest, except in rare instances, perhaps, is to turn out manufactured goods. (2) The prisoners know that they receive no wage—excepting perhaps for overtime—that the advantage is almost wholly on the side of the manufacturer and that they themselves, and the state, have the little end of the bargain. They resent, therefore, being placed in a situation in which, as they think, a few contractors are waxing rich at their expense. The tendency is then for prisoners under the contract system to work indolently and carelessly, and to develop, therefore, a dislike or hatred for it. (3) The prisoner develops a distrust of the prison officials and of the state due to what he calls the intrusion of the grafting contractor. Yet, from our viewpoint, the prison officials and the state must be regarded by the prisoner with entire confidence if the reconstructive work is to be accomplished.

Yet the contract system of labor is not inherently bad. It can be organized with foremen selected with a view to their ability and disposition as educators; it can present an opportunity to learn a trade; it can pay a wage and so appeal to the prisoner's normal ambition to make a store for future use and to contribute to the support of his dependents.

The contract system has been largely displaced by the state use and state account systems. Prison labor is employed in the manufacture of such articles as are used in other state institutions; school desks, chairs, other furniture for public offices, brooms, printed forms, etc. The prisoner working under this scheme can be made to feel that he is at least helping the state directly to support the institutions.

A notable illustration of the system employed locally is found in the Chicago House of Correction in which great quantities of

street cleaning apparatus is manufactured for the city of Chicago; bread is baked and laundering done not only for the prison itself but for all police stations in the city; forms are printed for those institutions and for the Municipal Court, etc.

### *Compensation for Prison Labor.*

Many states and the District of Columbia are enforcing laws providing for the compensation of prisoners for their labor.<sup>2</sup> The wage is usually small, but it enables the authorities to make a strong appeal to fundamental motives—especially so when at the same time the prisoner is engaged in manufacturing goods for the state.

The multiplication of manufacturing industries and state need for manufactured articles will facilitate undoubtedly the operation of plans for compensation for prison labor. On the other hand, the adoption of the penal farm idea will stand in the way for the reason that very few men as compared with the population of a state prison can perform all the necessary labor of a large penal farm, excepting in those cases in which approximately the entire area of the farm can be given over to intensive gardening; but such employment is not practicable on account of geographic considerations in the vast majority of regions. Part time employment and employment at an intensity far below the capacity of the worker are mischievous from our view point. Even where intensive gardening is practicable it would be unwise to make this the only opportunity for the occupation of each prisoner. At least a minimum opportunity must be given for the expression of individuality.

Work on the public roads is employed in many states to supplement other forms of occupation, and successfully. This is not a new departure. The Friends in eastern Pennsylvania are responsible for such employment of prisoners in the early days of the Republic and at no time since has it fallen entirely into disuse. Unfortunately the workers have often dragged the ball

<sup>2</sup> The Honolulu prison already mentioned has a splendid system of labor and payment. Prisoners do city street work, public park work and work on mountain roads.

and chain, but in many instances the honor road gang, comprised of selected individuals, working free from both stripes and chains have come to stay. This is notably true of the Pacific States, of Colorado and New Hampshire, and of Hawaii, to mention but a few cases.

Discussion of prison labor problems ordinarily leave the jails out of count. Yet, as long as these institutions continue to be used as places of commitment for short term prisoners we shall be faced with the desirability or necessity for some form of constructive employment. Certainly the situation is no different than in the case of the City House of Correction, excepting that because of the rural surroundings of most jails occupations must be found for the most part, if not all, upon the farms. In the state of Wisconsin sheriffs have been authorized by law to find occupation on the farms or elsewhere for jail prisoners, and to collect wages to be turned over to the prisoner himself or his dependents. Wherever the plan has been put into operation it has been successful. In one county alone \$6,000 was collected for prisoners' labor and accounted for in two years.

The occupation of the feeble-minded and the insane in prisons should present no problem whatever. These classes, according to our plan as a whole, will be placed in special institutions in which occupations will be provided more with reference to their hygienic rather than their economic value; their value from the view point of the acquisition of a trade will be of secondary importance.

### *Self Government.*

Normally men and women profit from the responsibility of self control, and here as in other relations, for constructive ends, the responsibility must be as great as the individual or group can live up to.

The first experiments in this direction to attract public attention were conducted in the Junior Republics. The best known test of the method is that at the George Junior Republic in Freeville, New York, where for more than twenty years boys and girls of all ages up to twenty-one years, and of various degrees

of incorrigibility, have made their own laws and administered their own government. This little republic is, in miniature, a near duplicate of the state of New York. The results have been most encouraging. It is reported that more than 95 per cent. of those who spend a number of years under the influence of this educational experiment succeed subsequently in maintaining adjustment in social relations. Great credit for the success of the enterprise must be given to the personality that stands behind it. Judging from school experiments of the same nature, it appears that when the great personality is lacking behind the scenes, the experiment is doomed to failure.

The most conspicuous attempt at self-government in prisons was established at Sing Sing under the wardenship of Mr. Thomas Mott Osborne. A court composed of five judges elected, among other officers, by the prisoners passed upon all cases of alleged violation of prison rules and measured out punishment which generally took the form of deprivation of privileges. When the plan had been in operation a year and a half the claim was made that the Warden's court, to which either party in an action could make appeal, never found it necessary to levy a heavier penalty than that decreed by the prisoners' court. Evidence of this sort is not conclusive one way or the other, but certainly during the period of one and one-half years referred to, an atmosphere of hope and cheerfulness had displaced that of gloom and despondency among the prisoners of Sing Sing. This is an advantage from the point of view of our ideal for constructive work among criminals. At the same time the most enthusiastic advocate of self government as a means for the rehabilitation of prisoners must acknowledge that in the prison population, as a whole, there is a considerable percentage of persons who by reason of mental deficiency can make no progress toward social adaptation or readaptation by any sort of educational device.



## CHAPTER V.

### PSYCHO-SOCIAL ASPECTS OF CRIME.

#### *Concluded.*

#### PROBATION.

Probation, as the term is used in connection with the problems of criminology, means the release, on specified conditions, of offenders found guilty according to ordinary procedure. It may be called suspended sentence because the court having found the defendant guilty does not pass sentence, excepting for the fact that the process implies positively that the offender is placed in charge of a probation officer, and that the conditions on which he may retain his freedom are clearly defined. If the conditions are not met the offender may be returned to court and sentenced.

The suspension of sentence was first inaugurated in Boston. Later it was extended to the state of Massachusetts at large. It applied to both juvenile and adult offenders.

Probation in the full acceptance of the term has come to be recognized as a part of the procedure in the juvenile courts. It is, or should be, intimately bound up with the work of the schools, the vocational guidance bureaus, the home finding agencies and the mothers' pension or funds to parents' bureaus, wherever these may be found.

Whatever the organization should be, whether one or more of these enterprises, it should be organized under the chief probation officer so as to be responsible through this officer to the court. Whether they should be co-ordinate with the probation office and subject to the court, or entirely independent and in voluntary co-operation with the probation office, these are the questions that have to be decided largely in view of local conditions. As a general rule, in so important a matter as the social adaptation of this group, it is desirable to secure the largest

possible centralization in order that responsibility may be fixed without uncertainty.

Some of the problems in connection with vocation and education are suggested by the data in the report of the Chicago City Council's Commission on Crime, in the study of County Jail boys by Mr. Paul Drucker.

### *Selection of Fit Subjects For Juvenile Probation.*

The selection of juveniles suitable for probation is a responsibility that in all cases must fall upon the criminological laboratory with its corps of investigators, social workers, psychologists, and physicians co-operating with other officers of the court. It is axiomatic that any juvenile who is sufficiently educable to offer a reasonable expectation that he may be made able to provide honestly for himself, and that he may in no sense be a public nuisance, should be admitted to probation. Furthermore, no juvenile who is afflicted with any dangerous communicable disease should be permitted to enjoy the full freedom of probation. For such cases hospital treatment must be provided until such time as it is safe to allow full liberty to the sufferers.

### *Adult Probation.*

The probation of adults presents much the same problems as does that of juveniles. It is more difficult to get constructive work done with adults than with juveniles for the reason that their habits of life are more firmly fixed. On the other hand, adult offenders are less helpless than juveniles. Profitable employment can usually be found for them and they can be shifted from one location to another with relative ease, particularly in the case of those who have no dependents.

Here, as in the case of juvenile probationers, the all-important consideration is the selection of persons suitable for probation. This is especially important when we are formulating our methods of operation. At such a time we must be most careful to place on probation only those who are most capable of re-

sponding to the educational processes that are involved, and this implies the adoption of criteria of their capability.

The legal criterion is not sufficient, nor is it intelligent. It marks a distinction between felony and misdemeanor and says that no one who has been found guilty of a felony may be admitted to probation. In some jurisdictions, for instance, one who has stolen twenty or more dollars worth of goods is guilty of a felony. One who has stolen less than that amount is guilty of a misdemeanor. Yet the felon may be infinitely more fit to enjoy the freedom of probation than the misdemeanant. This point is emphasized by the data on adult probation in the report of the Chicago City Council Committee on Crime (pp. 102-104). The reference here is to two groups of offenders. One group was not eligible to probation under the law, yet their judges, in violation of the law turned them over to the probation office. After several years these people are doing well and are respected members of their respective communities. The other group at the time of their original conviction were eligible to probation and it was granted to them. Since that day they have passed from one misdemeanor to another and at the time at which the investigation of the council committee was being made they were serving short terms in the Chicago House of Correction. These men were mentally unfit to be at large, at any rate without the closest supervision which in their cases was impossible, and besides, at the time at which the investigation was under way they had been suffering for a long time evidently, from dangerous infectious diseases.

As determinants of fitness for probation we must require mental health, freedom from drug habits and alcoholism (in the strict sense), and a negative Wasserman reaction both as to blood and spinal fluid. Offenders who are the victims of these habits and infections must be provided for in hospital custody until such time as they are no longer a menace to their own health and the health of the community. It is estimated that if such criteria as these had been in force in Chicago during 1914 the total number of probationers in that city during the year would have been smaller by the elimination of about one thousand undesirables.

The selection of suitable probationers, as in the case of work among juveniles, is clearly a matter for the criminological laboratory in the court, or available to the court. In the municipal courts of Chicago and Boston such laboratories are now established and are daily demonstrating their usefulness in this relation.

Of second, if not equal, importance to the foregoing is the selection of probation officers. As long as they are officers of the court there are good reasons why, in some manner, they should be selected by the court. At the same time they must be protected to the utmost against partisan influences. To this end appointment should be made from a group of eligibles determined by civil service examination—not necessarily from the topmost in the list. This will secure freedom from partisanship and at the same time give the judge a degree of desirable freedom in the selection of his own officers. The civil service procedure is already in vogue in some jurisdictions and in some others the appointing judge has now and again invited a committee of citizens to serve as an unofficial examining board.

Perhaps it is worth while considering the proposition that the probation system could be removed from partisanship by making the court itself non-partisan. On one hand it is alleged that this can be accomplished by giving the judges a long definite tenure, or better, an indefinite tenure and making the office appointive. On another hand it is argued that the end we seek may be obtained through the long or indefinite elective system. In some of the large centers where the elective system and comparatively short terms prevail a strong Bar Association has been able to go a long way toward developing a public sentiment that now and again has expressed itself in the selection of judges who are by disposition non-partisan.

In most jurisdictions there is a serious lack of co-ordinated effort in probation work among the counties of the state. In Massachusetts and New York, to mention notable instances, a state probation commission unifies the work throughout the state and standardizes the methods. Besides, it co-ordinates the interests of juvenile and adult probation and so makes for economy and effectiveness. There is good reason to believe that in many



counties of almost any state the juvenile and adult probation interests could be brought into one hand in such a way as to stimulate both.

### PAROLE.

Parole has reference to the conditional release of a prisoner from prison or reformatory before the expiration of the period during which he may be legally detained, according to sentence. The sentence in most courts is for an indefinite term, between a minimum and a maximum. Parole is not pardon. It allows a portion of the term of sentence to be served outside of the prison or reformatory. The detailed rules that govern parole vary among the states. The formulation of these rules and their administration under the parole law are in the hands of a Parole Board or a Board of Commissioners of Pardons and Parole.

Whatever is the form of organization, co-operation is had with the wardens and other prison officials including the medical officers and the committing court in the selection of suitable cases for parole. A new departure in Illinois creates the office of state criminologist which co-operates with the officials already named and the state superintendent of prisons in determining fitness for parole. The criteria of fitness for parole are essentially the same as we pointed out for probation above and, therefore, the parole problem is largely a duplicate of the probation problem already discussed. In the parole system, however, there is better opportunity to get the data necessary for an intelligent judgment, for the behavior of the prisoner is, for a longer or shorter period, under close observation in the prison.

The parole system offers an opportunity to bring strong incentives for good behavior and acquisition of a trade to bear upon the prisoner and, therefore, it may be looked upon as an educational device or institution for the advantage of those who are able to respond to the educational treatment.

Compared with the importance of making selection of persons suitable for parole, it is of second, if not equal importance to have a suitable group of parole agents who will have general supervision over the prisoner during the period of his parole.

The proper performance of the duties of a parole agent requires a high order of intelligence and skill. They are the unobtrusive teachers of paroled prisoners and as such we should be able to expect them to bring not only a sympathetic and inspiring personality to bear upon their wards, but such a degree of knowledge of human nature and social relations as well that they may be able to treat technical violations of parole with discrimination.

The parole system has aroused considerable adverse criticism on the alleged grounds that it affords an easy way of escape even for dangerous criminals who immediately go about indulging their criminal disposition again. The facts point to an entirely different conclusion. Dr. Amos Butler of Indianapolis, in a paper read before the American Prison Association in 1915, gave a report of the operation of parole in his state during eighteen years. In it he showed that the actual time served by convicts in the Indiana state prison under the parole system is on the average more than a year longer than it was under the definite sentence regime that preceded. In that paper statistics were presented showing that the general statement holds of persons committed for larceny, burglary, assault and battery, and eight other offenses.

The Division of Pardons and Parole of the Department of Public Welfare in the State of Illinois has data that duplicates this and the record has been published in part. During the five years, 1891-1895 inclusive, before the parole law was enacted in that state there were discharged from the prison at Joliet one thousand four hundred eighty-three who had been convicted of burglary, seven hundred seventy-six who had been convicted of larceny, and two hundred eighty-six who had been convicted of robbery. During 1910-1914 inclusive, which at the time of the report was the latest five-year period under the parole law, the corresponding figures are five hundred thirty-five, four hundred and three, and two hundred sixty-seven. This is a decrease of nine hundred forty-eight convicted of burglary alone and a total decrease of all offenders amounting to three hundred forty, or 52.6 per cent.

The one thousand two hundred five prisoners of the classes

named released on parole during the second of the two periods designated had served in prison three years, four months and one day on the average as compared with one year, six months and twenty-eight days which is the average time spent in prison by the two thousand five hundred forty-five who were discharged during the period 1890-1894 inclusive.

In the face of such figures as these the charge that the parole law is releasing dangerous criminals to prey upon the public can hardly be substantiated.

Data of the same import as the above were presented in June, 1918, by Mr. John L. Whitman, superintendent of Illinois prisons, at the annual meeting of the Illinois branch of the American Institute of Criminal Law and Criminology.

In Illinois there has been a marked decrease in the frequency of the commitment of recidivists. This, the Superintendent of Prisons accounts for on the ground that those who are likely to become recidivists are discovered by the mental and physical examinations that are in vogue, are passed to the maximum sentence by the parole officers and year after year an increasing number of them are being committed to the institutions that are adapted to serve the needs of special classes of the mentally and physically defective.

Under the stress of war conditions, Mr. Whitman stated, large proportions of prisoners could be successfully paroled to properly selected industrial establishments much earlier after commitment than had been the rule before. This, together with the success of parole in ordinary circumstances and of the intensive probationary work in the Juvenile courts already alluded to, provokes the thought that suitable organization and equipment would probably enable us to make larger use of adult probation than at present obtain in most jurisdictions.

### CONCLUSIONS.

This partial survey of present-day attitudes and practice with reference to the prevention of crime and the treatment of delinquents and criminals brings into strong relief the fact that we are more and more adjusting our methods to the characteristics

of potential and developed criminals; that we are gradually getting away from the conventional idea of punishment in the old sense and are substituting therefor the ideal of education in the broadest sense of the term.

Continued progress in this direction would undoubtedly lead to two goals: (1), to a revamping of the functions of the judge in the criminal court, so that he will merely reach a decision as to the guilt or innocence of the accused and place him in the hands of the probation officer who will either admit him to probation forthwith or send him on to a clearing house for further investigation and detention with a view to determining on scientific grounds what further detention should be required and what should be the nature of his treatment. (2). Such progress will lead to the development of the prison system of the clearing house plan, and of the individual prison on a similar plan so that it may offer a series of graduated steps for prisoners based upon intelligence and behavior, and placing greater and greater privileges and responsibilities in the hands of the prisoners until finally the privilege and responsibility of parole and discharge are upon him.<sup>1</sup>

<sup>1</sup> The reader's attention is called to the important Series of Monographs on Crime recently published by the Cleveland Foundation Survey, and to the Police Monograph Series of the Berkeley California Police Research Department. See Bibliography.



## CHAPTER VI.

### CRIMINAL CLASSES.

#### THE FEEBLE-MINDED.

Until rather recently the higher degrees of feeble-mindedness were not in a scientific sense in the least understood, and while an individual so affected was usually regarded as queer, dull, or in some way defective, no one really comprehended the real condition. As a natural consequence, great numbers of mentally retarded persons were held responsible for their failures in life or for actual offenses, when, as a matter of fact, they were no more competent than children, most often of from about eight to twelve years of age. Indeed, most people still fail to understand the irresponsibility of the Moron, and courts, as well as the general public, make scant if any allowance for this unfortunate class of mental defectives.

The diagnosis of feeble-mindedness is no easy matter, and while it is true that psychological measuring scales of intelligence have rendered inestimable assistance, it must be understood that the diagnosis of this disorder includes much more than intelligence testing by psychological methods. Much which now passes as a purely mental disorder has in reality a *physical basis* and before a diagnosis of feeble-mindedness can be made, one must usually have access to various physical facts including for example, such factors as the ductless glands, various infections, disorders of *metabolism*, accidents, and numerous other physical conditions. The presence of hook-worm disease may, for example, give all the evidence of feeble-mindedness, as has been so well demonstrated in the South, where, as a matter of fact, the cure of this physical disorder often removes the apparent mental defect.

Psychology alone would, in such cases, be very misleading and might lead to a mistaken conclusion. To some extent the same would be true of many other cases of extreme malnutrition and

blood impoverishment. The diagnosis of feeble-mindedness is, therefore, a *medical problem* in which psychology offers highly important and indispensable assistance.

In a general way it may be said that true feeble-mindedness represents a retarded mental development amounting to several years. For example: if a child is twelve years old but has a mental development corresponding only to that of an eight-year-old child, he would ordinarily be regarded as feeble-minded. In other words, a mental retardation of four or more years usually means feeble-mindedness. If an individual passes the twelve-year state of mental growth, he would not ordinarily be regarded as feeble-minded, no matter what his actual age might be. We might then perhaps refer to him as a dull normal or a borderline case. Sometimes the limits of mental levels are expressed by the "Intelligence Quotient." Less than seventy would ordinarily indicate feeble-mindedness, while anything between seventy and ninety would indicate various degrees of mental retardation and ninety and upward, different degrees of normality. One hundred sixty would, for example, represent a very high degree of mental ability, equivalent to genius.

A person whose mental age does not exceed that of a normal three-year old child is known as an idiot; if his mental age is between three and seven years, he is known as an imbecile; and, finally, if his mental age is somewhere between eight and eleven years, we speak of him as a Moron. All of these are feeble-minded. Twelve-year mentality will ordinarily float a person in our present social organization, in a mediocre sort of way, as well as an intelligence quotient of seventy-five or eighty.

The high grade mentally deficient people whose mental ages fall somewhere between eight and twelve years and most often between nine and eleven years, furnish us our greatest problem of feeble-mindedness. Unaided they never float successfully and frequently they fall into crime or other forms of social failure. The low grade mentally deficient are easily recognized and may be cared for in the home or in public institutions. We never expect them to become responsible members of society; but the feeble-minded of the higher type, the Morons, are usually

very difficult to recognize even by their own families and most intimate friends. This group comprehends many of the ne'er-do-wells, such as the juvenile delinquents, tramps, adult criminals, paupers, prostitutes as well as certain children who are much retarded in school in spite of good health and the usual educational opportunities.

Members of this Moron class are never able to compete on even relatively equal terms, with their associates. They do not and cannot handle the affairs of life with reasonable prudence. They seldom hold any job long; they never hold a good job for even a short time. More often than not they are blamed for their failures, for society usually regards them as mentally and morally responsible, while, as a matter of fact, they are neither. No class of society is more unjustly dealt with. Society often needs protection against them, but more often they need protection against the injustice of society.

Twenty-five to thirty per cent of the prisoners of our state penitentiaries are of this class; at least thirty per cent. of our reform school children; about thirty-five per cent of the seriously delinquent children of the juvenile courts; approximately seventy-five per cent. of the prostitute class; a large proportion of the Poor House inmates; twenty-five per cent of the city unemployed; and probably eighty per cent of the chronic alcoholics. Large numbers are found among tramps, and every city jail harbors them in great numbers.

Yet in the main our jails, penitentiaries, poor houses, rescue homes, and other public agencies, and even our schools, fail to recognize the plain facts of the problem before their very eyes. Our laws and social customs are made for the mentally responsible when, as a matter of fact, they are constantly applied to thousands of the irresponsible.

### *A Measure of Minds.*

A measuring scale for minds has never until rather recently been available. We could always guess but we could never definitely know. Binet and Simon in Paris, in 1905, developed such a scale and afterward in 1908 and in 1911 greatly perfected

it. Since then other psychologists<sup>1</sup> have added improvements until we now have a pretty satisfactory means for determining the grade of intelligence possessed by anyone. These intelligence scales are of the greatest possible value not only in estimating the amount of mental retardation present in the mentally deficient but in determining the mental status of normal people, for even among the latter, various degrees of mental development are found present. This fact now makes it possible to give great aid in properly placing normal individuals where they will be unlikely to fail, and most likely to succeed, whether this be in school, college or out in life.

With the remarkable development of the use of psychological tests in the army and in industry, it is now possible to make use also of the group tests, by which large numbers of people may be tested at the same time. A more recent development of this same idea has resulted in the use of group testing in the public schools, and some fairly accurate scales are now available for this purpose, by which large groups of school children may be mentally classified to a degree of accuracy never before possible.<sup>2</sup>

While everybody knows that physical development has perfectly definite limits, the same fact is not well understood in regard to mental development. It is, however, true, that our mental possibilities are fixed at birth and we have as much intelligence, at least potentially, then as we will ever have. Mental development, or the intellectual level, is just as much fixed in an individual as physical stature is. In the feeble-minded this limit does not pass above the eleven or twelve-year limit; in the dull-normal it does not exceed a twelve to thirteen-year limit; while in the normal individual the mental age is equal to the actual age. It should be understood, however, that adult normal intelligence for all practical purposes is supposed to reach its full development at about sixteen to eighteen years of age, although no

<sup>1</sup> The Stanford University revision of the Binet Scale is the one now most generally in use. It was developed by Professor Lewis M. Terman.

<sup>2</sup> Such group tests include the Army Alpha and Beta; the National Research Council tests A and B; the Morgan; Terman; Haggerty; Thorndike and others.



doubt some development continues until the age of twenty or even later.

### *Uses of Education.*

All that education can do is to teach us to make the best use of the intelligence with which we are endowed at birth. It does not increase intelligence itself in the least. Since the time that mental measurements became practically possible, the problem of feeble-mindedness has become greatly simplified. It is no longer necessary to make the errors of the past in regard to the treatment of many of our subnormal individuals in society. We cannot expect a child of the Moron type who appears in the Juvenile Court for example, for a serious delinquency, to be placed on probation with much hope of success under the old conditions. Someone has to be responsible for his behavior. Society is too complex for him to struggle with successfully. He cannot compete commercially, socially or morally on equal terms with his fellows; he is always a child in his reaction to his environment.

The fact that there are at least one to two per cent. of the school population definitely feeble-minded, makes it clear to us that our duty is to recognize this defect early and so educate and safeguard the individual that he will not fall a victim to his own incapacity. This is one of the most important problems of the public schools today, for prevention is far more important than cure. It has been estimated that more than 90 per cent of adult criminals begin their careers as juvenile delinquents, a fact which indicates the necessity for an early study of the various kinds of mentally misfit children.

It must be well understood that mental deficiency is incurable, just as incurable as blue eyes or short stature, and that all we can do is to help the individual to make the most of what he has and not expect him to use that which he has not. He must therefore be placed in surroundings in which there is some hope of success with the meagre talents he possesses.

Many of such individuals may become self-supporting and respectable members of society, with proper practical education

and guidance. Relatively few need to be placed in public institutions, as many have claimed, or need necessarily drift into crime, pauperism and other forms of social failure. In the past and largely in the present, the feeble-minded drift into social incompetency and become our public wards, just because they are misunderstood, misplaced, and undirected.

### *The Taint of Heredity.*

The greatest problem of feeble-mindedness, however, is that of preventing its growth and continuance. Much more than two-thirds of all of it is due to direct hereditary taint. It is a germ-plasm defect. As long as the feeble-minded are freely permitted to pass their taint along, they will be with us always. Poor seed yields poor fruitage; and this is just as true of the human plant as it is of the vegetable kingdom. The sterilization of the socially unfit is therefore not only morally permissible but socially obligatory. The startling history of the Jukes family, the "Tribe of Ishmael," the "Hill Family," and the "Kallikak Family" gives abundant proof of the terrible cost, social and financial, of the unrestrained breeding of the unfit.

Wherever crime and delinquency are studied, the amazing prevalence of feeble-mindedness presents itself. For example, Dr. Victor Anderson made a study of this problem in connection with the Boston Municipal Court some time ago and these are some of his conclusions:

One hundred feeble-minded individuals were selected from the court files and of these all showed evidence of mental deviation in childhood. The majority started school at the usual age and quit at from fourteen to sixteen years.

Their educational history is significant as indicated by the following table:

Those reaching the primary grade -----	4%
Those reaching the first grade -----	11%
Those reaching the second grade -----	4%
Those reaching the third grade -----	12%
Those reaching the fourth grade -----	14%

Those reaching the fifth grade .....	23%
Those reaching the sixth grade .....	11%
Those reaching the seventh grade .....	9%
Those reaching the eighth grade .....	7%
No schooling .....	2%
Data not obtained ----	3%

Twenty-seven per cent were never able to advance beyond the third grade, and sixty-eight per cent were unable to advance beyond the fifth grade. Seventy-five per cent of these one hundred cases were not self-supporting, even in a poor sort of way.

The investigation clearly shows, both by the educational and world test, to say nothing of the psychological test, that the majority were mentally unfit to meet the simplest economic problems of life, and that they are the sort who drift helplessly through life, furnishing our principal stock in the courts and public institutions.

These one hundred cases were arrested one thousand eight hundred twenty-five times, showing as Dr. Anderson says, the same inability to profit by mistakes, as demonstrated so forcibly in their failure to advance in school, and later to earn a livelihood. Seventy-five per cent of these delinquents possessed a mental level of less than ten years, a remarkable correspondence with the figures already given in respect to school history and life experience.

These in the main furnish the class of criminals and delinquents which our courts are forever committing to reform schools, and penal institutions, individuals, who, by the very make-up of their central nervous systems are incapable of adapting themselves to the conditions of normal life. The utter hopelessness of such a situation is so apparent as to need no further discussion. Our reform and industrial schools in the main are called upon to deal with *irreformable material*; our prisons with individuals whose characters are, in the main, totally uninfluenced by punishment.

That the mental development of most criminals and juvenile offenders is arrested at low levels is evidenced by the reports of every psychopathic laboratory in the country. Among seventy-

five unselected cases taken from our own many cases at the Los Angeles Detention Home, we observe that in using a Group Mental Test method, they range in score from zero to one hundred forty-two. Sixty-six per cent are below normal intelligence for their actual ages; thirty-four per cent are normal. Of this group of seventy-five, twenty per cent are feeble-minded and twenty per cent about average normality. The importance of exact knowledge of the intelligence of such children in connection with their future care is apparent. The significance of this result is evident when it is remembered that these boys were all over twelve years of age and that the normal score for such ages ranges from sixty to ninety-five on the particular test employed.

We have, therefore, in this group selected as a fair sample of hundreds of others, children who are too defective to succeed at all in life and who need institutional care; children who will succeed only under permanent supervision and with special vocational education; children who are average, and, finally, a few children who are superior and who, under proper guidance, may be expected to succeed unusually well. Unless properly studied and classified, such children would all be treated *en masse* with results which could terminate in nothing but disaster for the majority.

In another series of one hundred eighty court children studied by means of individual mental tests, sixty-two per cent were below normal and thirty-eight per cent normal,—a remarkable correspondence with the results just given in regard to the group tests. In this group thirty-three per cent were found feeble-minded. In a group of public school children of about the same ages as those studied in our Juvenile Court, our figures were almost exactly reversed, sixty-six per cent being found average normal or above and thirty-four per cent below normal. In regard to feeble-mindedness, however, while the court records show from twenty to thirty-three per cent of feeble-mindedness, the school record shows only about one per cent. of this class. In other words, it is clear that the majority of court children are furnished by those school children who are actually feeble-



minded or who are at least decidedly below the normal intellectual level.<sup>3</sup>

The fact that low levels of mentality are everywhere observable among our criminal and juvenile delinquent classes is, however, not the only significant fact. Among these individuals are found as many kinds of *personality* as among normal people—a fact often overlooked by students of crime.

The kind of personality possessed by an individual is quite as important as the kind of *intelligence*, and whether he is to fail or succeed in life is, therefore, based both upon his intelligence and his personality. Some individuals with relatively low intelligence fortunately possess the sort of general mental make-up which renders them unlikely to fall into crime, while others with relatively good or even sometimes with superior intelligence drift into crime with the least possible resistance. Attempts at social adjustment for the delinquent and mentally defective classes must therefore take both of these mental elements into serious consideration.

As illustrative of mental defect in relation to crime, the following cases, taken from our own records, are significant and instructive. They are only typical of scores of others we might have selected.

Charles Oxnam, a pleasant, but rather inferior appearing boy of eighteen years, was approached on the streets of Los Angeles one night by another boy about the same age, and a burglary suggested. Charles, who had never before been guilty of a serious offense, but who had shown a weak personality and delinquent tendencies, readily fell in with the desires of his companion.

The young men entered the house at a late hour, but were unexpectedly met by both the owner and his grown son, both of whom had been aroused. The son raised a revolver to fire, when Charles, in his excitement, drew his own revolver and, firing blindly, killed the head of the house. These youthful burglars then made their escape and leaving their shoes behind them in

<sup>3</sup> A recent study of over six hundred boys in the Los Angeles court gives 14 per cent. of feeble-mindedness, while of over five hundred cases of girls there were 37 per cent. See Report of Juvenile Hall.

the house, managed to travel across the city and reach their lodgings, only to be captured by the police on the following day through Charles' seeking medical advice for the wound he had received in his leg the night before. Investigation brought to light the following interesting facts about this youthful murderer :

Charles had not succeeded in school, never having passed beyond the fifth grade and never succeeding well even in that, in spite of the fact that he had remained in school until he was sixteen. He was unable to do the simplest kind of number work and his general information was negligible. His teachers had never in the least suspected that he might be *feeble-minded*, a situation which is far from uncommon in nearly every school in the land. After leaving school, he had tried to fill many different kinds of positions, such as iron moulder, sailor in the Naval reserve, errand boy, waiter in a cheap restaurant and cook's helper, but with no real success. He could never hold a job long, a characteristic always observed in the feeble-minded. By his own family and by his neighbors he had been regarded as a rather dull and queer boy, but that was all. He had always been child-like in disposition and easily open to suggestion of any sort, good or bad.

On the night of the robbery he had carried a revolver with no intention to do deliberate harm, but because, like any boy with an adventurous spirit, he had expected to camp out in the mountains. This boy then, had never succeeded, had always been discouraged, and finally had accepted the invitation of another boy to take part in a serious crime, not realizing in the least the possible results of the act. In other words, he had behaved exactly as the feeble-minded or Moron type always does. In his feeble way he had tried to help in the support of his mother, a woman of education and refinement but of much reduced circumstances, but with the characteristic ill-success of his class. His father, who had died some years earlier, had been a minister of considerable ability, who had held some important church positions.

Disregarding the statements of three experts to the effect that Charles was permanently arrested in mental growth and possessed only the intelligence of a nine-year-old child, this boy

was tried in the criminal court and was sentenced to hang, much to the satisfaction of the police and the local community, for the former wanted to make a record, and the latter cried out for blood, without any care or thought of this boy's degree of moral responsibility. Notwithstanding the petitions for clemency to the Governor from many important organizations and prominent private citizens, and the testimony of Dr. Henry Goddard, who happened to be in California at this time, this boy, after several reprieves, was finally hanged, as was his almost equally defective associate. In this case, as in thousands of others much like it, we had to do with a boy possessing enough superficial ability to get along as well as many individuals do who pass through the world as stupid but apparently responsible people. Unrecognized as feeble-minded and utterly lacking in sound judgment and personal responsibility, society avenges itself with the life of the helpless individual whom it never protected. One might, of course, argue that criminal defectives are better out of the world anyway, but in such instances we might as well be honest about the matter and admit that we hang the individual *because he is feeble-minded*. On the basis of responsibility there is no logic in the procedure. Every great prison in the land, and every reform school confines scores of men and boys more or less like the one just described.

But while the unrecognized feeble-minded are often potential criminals, yet it is true, as the Juvenile Protective Association in Chicago says, that it has been proved in thirty or more states that defective children taken in time are amenable to certain training which makes them reasonably safe members of society under proper control, but it is just as certain that without training and proper control the defectives will continue to swell the numbers not only of the feeble-minded, but of the insane, the destitute, the drunkards, the prostitutes and the criminals. Nothing that we can do in caring for the class of defectives is nearly so costly as the results of our neglect in not caring for them. Hanging a feeble-minded criminal does not touch the social problem at any point; committing defective children to reform schools helps neither the child nor the community from which it comes, for reformation must be based upon reasonably normal intelligence.



In the next case we have an even more terrible example of our failure to care for the feeble-minded. Louis Fortin, twenty-seven years old, a farm hand near Oxnard, California, became engaged in a dispute with his employer over a matter of wages and in a sudden fit of anger killed him with an iron bar. He then proceeded to the home, killed his employer's wife and baby, and then placing all three bodies on a bed in one of the rooms, burned the house.

Directly afterward Fortin drove to town, successfully forged his employer's name on a check and drew several hundred dollars from the bank. He then had supper in a restaurant, played a game of pool, and late in the evening drove home to the ranch, going to bed as usual in the bunk-house. The following morning he hitched the horses to the plow and began his day's work. A few hours later, when charged with the crime by officers, he childishly admitted it, but gave evidence of no emotion. Later he stoutly denied the crime.

Fortin had worked in the neighborhood for years and was well-known as a rather stupid but fairly satisfactory ranch hand, capable of driving a six-horse team, of cooking, and doing the ordinary work of the ranch *under supervision*. No one had suspected that he was feeble-minded. An examination of Fortin showed him to be a feeble-minded man with intelligence arrested at about the eight-year level. In school he had never progressed beyond the fourth grade. Our investigation showed that his mother and two sisters had also been feeble-minded, but so far as known no examination had ever been made of them, and the people of the community in which they lived had recognized only *social inferiority*. The history of their lives, however, made it perfectly plain that this was a defective family. The father was apparently a normal laborer, but an uncle was known as an epileptic. Fortin's sisters had never been capable of anything but the commonest labor and had never succeeded in school; his mother had run her home in a hopelessly inadequate manner, and was known as shiftless and inadequate.

Fortin could not make change; knew nothing of the simplest geography, not even of his own region; read only simple words, and had no interests in anything outside of his immediate en-



vironment. Sexually, he was notoriously bad. At the examination it was clear to us that this man was not only feeble-minded but epileptic as well. In regard to the crime, he was totally indifferent and remained so throughout the entire trial, showing more interest in the dinner hour than in anything else. The jury claimed that a man who could earn fifty dollars a month and pass muster as a fair farm-hand could not be feeble-minded and must therefore be responsible for his moral actions.

No claim of insanity was made, and as feeble-mindedness is, in California, no excuse for crime, Fortin was duly convicted and hanged. Society lost nothing in his death, but society committed a grievous error in failing to recognize in him the potential criminal requiring only the *right set of circumstances* to turn him from a stupid, harmless ranch hand to a cunning, monstrous criminal. In the death of Fortin an irresponsible degenerate has been removed from the world, but meanwhile little effort is being made to prevent similar degenerates from propagating their kind and continuing the perpetration of similar crimes. The list of such crimes continues and will continue unabated until such time as our courts and the people at large recognize the menace of the feeble-minded in our communities.<sup>4</sup>

Not long after the Fortin crime, a boy of twelve years was found murdered near the City of Santa Ana. A well-known degenerate of the community was soon suspected and within a few days the evidence of his guilt was easily demonstrated. This man of thirty years had enticed the boy to ride in his automobile on the pretext of helping him with some disabled part, and for which he offered to pay him a dollar. Riding to the hovel of this man on a chicken ranch, the boy was brutally assaulted. Afterward the child was decapitated and his body hidden in an isolated swamp, while the head was put under a bridge. The horror of this crime is too great to more than mention in bare outline. The point of the story of the case lies in the following established facts: This man had some years before been ar-

<sup>4</sup> Since this was written the notorious hammer murder case has occurred in Los Angeles. The defendant was a feeble-minded epileptic, but the jury promptly convicted the woman as a responsible vicious murderess.

rested for a similar brutal assault on a young boy but without murder, and had served a term in the penitentiary.<sup>5</sup> At this time no mental test had been made. After a short term he was released. Following various minor delinquencies, this man was found both feeble-minded and insane and was committed to the State Insane Hospital, only to be soon released. His next serious offense was the murder already described.

This man and his equally defective mother were well known to the police. Both had long police records; both were alcoholic; both were mentally defective and degenerate. And yet this man was given his liberty with such a record of degeneracy, crime, alcoholism and mental defect. No one could possibly argue for anything but death for such a human monster as this one; yet if he had been properly studied and placed in some institution early in life, no crime need ever have been committed, no innocent child murdered, or assaulted.

To those who study crime and criminals in a scientific manner, the evidence is overwhelming that in the main the serious violation of those established social customs which we call *laws* are evidence of lack of judgment based upon a defective intelligence or an unsound mind.<sup>6</sup>

If it is admitted that feeble-mindedness is, at any rate, the indirect cause of much of the crime committed, and that the explanation lies in the fact that the feeble-minded are lacking in those qualities which furnish good judgment in the affairs of life and the inability to profit by experience, then it is clear that the early detection of mental defect is one of the most hopeful means for the successful prevention of crime. It is here that routine mental studies of retarded, delinquent, and otherwise pe-

<sup>5</sup> This is of course a case homo-sexuality with insanity and feeble-mindedness added to it.

<sup>6</sup> It should be remembered that the feeble-minded are not only deficient in *intelligence*, but also in the complex *emotions* which those of higher intelligence experience. They are lacking in such qualities as awe, reverence, pity, patriotism, admiration, gratitude. "The emotional life of defectives and to a large extent of even normals can be readily referred to the primary (simple) emotions."

culiar school children offer much help in the problem of prevention. Every school system of any considerable size should therefore have a mental and social investigation department with one of its important functions the early recognition of those types which are most likely to drift into delinquency and crime.

When one is confronted, then, with the facts in respect to feeble-mindedness, crime, delinquency, pauperism, alcoholism, prostitution, and general social incompetency, the remedy appears fairly clear.

FIRST: Those dealing with social problems in any of their many forms must be in a position to know the facts about the individuals who pass under their care.

SECOND: When the facts are known, proper remedies must be available.

These remedies must include better laws, adapted to individuals instead of to masses; more institutions for the education of special kinds of cases; better facilities in the public schools for the early study of retarded children; research laboratories in connection with courts, city prisons, reform schools and penitentiaries for the study of the individual delinquent; and finally a more enlightened public opinion without which courts, schools, public institutions or any other social organizations can accomplish little good.

## CHAPTER VII.

### CRIMINAL CLASSES.

*Continued.*

#### THE INSANE.

No entirely satisfactory definition of insanity is possible except from a purely legal point of view. For legal purposes insanity means nothing more than "commitable"; and for a jury to state that a person is insane within the meaning of the law really expresses no scientific idea, and not even a very intelligible one.

As White says,<sup>1</sup> "There are many forms of mental illness, and to group them all under one term—insanity—gives us hardly any more information than to say they are all sick, and certainly no more information than we would have of a sick person if we inquired what the matter was with him and were told that he had a cough."

The legal statement defines insanity as a person of "unsound mind," and in so doing "merely substitutes one term for another." The law also states that the insane person is one who *does not know the difference between right and wrong* in relation to the nature of an act committed. But mental experts know perfectly well that the knowledge of right and wrong is no test at all of insanity, for it is perfectly possible for an individual to possess such knowledge and yet be quite able to *act* upon it. More than in any other manner insanity is indicated by *changed behavior*, by conduct different from that which has been normal to the individual in question.

People are insane who show certain definite changes in their type of conduct to a degree "which can not be tolerated in the community in which they happen to live." The characteristic feature of such conduct or behavior, is *social inadequacy*, and

<sup>1</sup> Mental Hygiene—Op. Cit.



consequently "insanity" comes to express not a medical term but a social term, "which defines kinds of socially inefficient conduct." Individuals behave normally in certain definite characteristic ways, and it is this behavior which indicates their particular type of personality or character which their friends always associate with them.

In the insane, conduct is always more or less changed, slightly at first but gradually more and more, until in some respects, and often in many, we recognize that the individual has no longer the same personality. The happy, optimistic person becomes sad and pessimistic; the person of high spirits becomes depressed and melancholy; the prudent person becomes reckless; the economical, extravagant; the extravagant, penurious; the moral person, immoral; the irreligious, fanatically religious; the affectionate person, indifferent; the kind person, cruel; and so the various changes might be mentioned which indicate that the individual is no longer the same in his mental make up, but greatly changed in his character, behavior and personality.

The degree to which these changes have occurred goes far toward furnishing the evidence of whether the once sane person has now become insane, a question which in fact is often difficult to determine. Crime and insanity are, of course, not necessarily related. For example, insane people may be perfectly responsible for certain crimes committed; they may be slightly or entirely insane. "Crime," says Mercier,<sup>2</sup> "may be the result of insanity that is wide-spread, and affects every mental faculty, or of a single isolated delusion. It may result from the mere blunting of the keen edge of judgment, or it may result from a profound distortion of intellect, feeling and desire."

Mercier says that it can not be too strongly insisted that insanity no more necessarily leads to crime than it is a necessary ingredient of crime; that the insane are no more necessarily to be absolved on account of their insanity from crime they may commit than are the sane.

In other words, sane people commit crimes, and insane people commit crimes, and it often happens that both are responsible

<sup>2</sup> Crime and Insanity.

for the crime committed. This fact greatly complicates the study of crime and criminals, of the sane and insane, and makes it necessary to determine not only the sanity or insanity of a criminal but the *nature and extent* of his insanity.

It follows that courts and juries have little knowledge of what they are about when passing upon the responsibility of an individual accused or convicted of a crime. Indeed, the decision of such a matter is of such extreme importance that only experts employed to represent neither one side nor the other of the case, but to determine the facts, can reasonably be expected to reach a reliable conclusion.

But when all is said, there remains the fact that insanity is responsible for a very high percentage of crime. We read almost daily in the newspapers of some madman who has run amuck and killed or attempted to kill somebody. We hear very little, however, of that vast army of equally insane persons who are constantly committing crimes of a less spectacular nature. Indeed, there are no official records giving the size of this army of defective malefactors.

Even in the case of many of the most notorious insane criminals, the court records are often entirely misleading. For example, the men who assassinated Garfield and McKinley, the man who attempted the life of Roosevelt, are all *officially recorded* as sane criminals, whereas there can be no reasonable doubt that all these men were of unsound mind.

As for the minor offenders and less notorious murderers, the records show that in a majority of instances the question of mental derangement is not even raised in court, or if so, it is decided officially by twelve persons utterly incompetent to pass judgment in such cases. This condition is not a reflection upon the intelligence or integrity of our court officials or of the juries, but it is the fault of the system. We should not expect to find, and do not find, that persons who have had no training in detecting disease are able to pass intelligently upon these most obscure maladies. As a result, our prisons are filled with persons who should be in asylums, and outside communities are menaced by unfortunates who should be under some kind of constant custodial supervision. Under the present system in force in most

states, as Justice Wilbur, of the Supreme Court of California, has recently stated, most pleas of insanity are made by sane people, who frequently go free, while most insane criminals make no insanity plea and are duly convicted and sentenced.

Moreover, it is one of the curious perversities of our civilization that the more pronounced cases of insanity are less likely to come to trial than the milder forms. In severe cases the mental abnormality is so obvious that the unfortunates are taken into custody without the courtroom experience. Yet one of the most dangerous of insane criminals is the one whose general appearance may least suggest mental abnormality to the average observer. The craftily scheming *paranoiac*, steeped in his purely imaginary persecutions, but capable of thinking and talking clearly on almost every subject, is given scant consideration by most jurymen. This man often talks well, looks well, and acts well in the courtroom, and on these things, rather than on any expert opinion that may be offered, the jury bases its verdict. Yet paranoia is probably the most dangerous and incurable, as well as the most deceptive, form of insanity.

A brief survey of the records of any criminal court in America will show how frequently justice miscarries in the case of the criminal insane. In proof of this is the fact that in our insane hospitals are found many persons who have been transferred from the prisons shortly after being convicted by the courts. To those unfamiliar with the situation, the following cases taken from one month's record of a single community will be illuminating.

A man who had once been connected with the police department, but had severed his connection several years before, conceived the idea that he was again a member of the force and was being persecuted. As a result, he committed some overt acts of a criminal nature and was arrested. The prosecuting attorney, suspecting that the man was abnormal, sent him to a hospital for observation. There, a commission of physicians acting in conjunction with a judge of the Superior Court, pronounced the man insane. The man demanded a jury trial, and within a few days appeared in court to have his sanity passed upon by twelve lay jurymen. At this trial there was only a single wit-

ness for the defense, that being the defendant himself. On the other hand, four physicians who could qualify in any company as expert alienists, and three other physicians whose opinions were worthy of serious consideration, all testified that the man was insane. Also, they agreed as to the particular form of insanity. As none of these six physicians received any remuneration for his services from any source whatsoever, there could be no suspicion that his opinions were influenced by a monetary motive. Yet the jury quickly returned the verdict that the man was not insane. As a result, he was immediately placed on trial in a criminal court, found guilty and sent to prison. A few weeks later he was transferred from the prison to an insane hospital.

Another case is that of a man who believed he had been mistreated in a prison in Alaska, and who went about the country writing obscene and scurrilous letters and enclosing disgusting substances to high officials. This man was pronounced insane by a commission and sent to a state hospital. His insanity was one of the incurable types. Shortly after he made his escape, and began sending out his disgusting letters to various important personages, was again apprehended and brought to trial.

Here again the experts all testified that the man was insane. Indeed, only one witness testified that the man was sane, a fellow jailbird who "had it in" for his comrade. Yet the jury immediately returned a verdict indicating that the man was a sane and responsible person!

Still another case, which illustrates a little different angle of the situation, is that of a young man who was pronounced sane by the jury in the face of overwhelming evidence that he was not only insane but mentally defective as well. In commenting on this case afterward, one of the high court officials remarked that "apparently this fellow is not quite right, never has been, and never will be, but what are we to do with him? If he goes to the asylum they will turn him out in a short time, and then he will be in trouble again." So he, too, was sent to prison.<sup>3</sup>

These cases, which all occurred within a single month in one city, illustrate what is taking place every day in our courts all

<sup>3</sup> Only a few states are provided with institutions for the criminal insane; every state is in need of them.



over this country. And meanwhile there is a far greater number of cases in which the sanity of the criminal is not even questioned. They illustrate two points, however; first, that juries frequently fail to recognize even cases of obvious insanity; second, even though they do recognize the abnormality of the person on trial, they hesitate to send the prisoner to a hospital rather than to a prison.

As there is no alternative between a prison or a hospital sentence in most states, the jury is, at present, placed in a position of choosing between two evils.

Everyone knows, of course, that there are not only several different kinds of insanity, but also various grades of intensity in insane manifestations. In popular parlance, a person may be "as crazy as a March hare", or merely "a little off." Unfortunately, most persons do not realize that the man who is "just a little off" is frequently more of a menace than the more obvious lunatic. The maniac is taken into custody, the less obvious lunatic is allowed to be at large, and as a result a very high percentage of the crimes committed by insane persons can be laid at the doors of persons whose insanity has not been established, or perhaps merely vaguely questioned prior to their crimes. And this leads to the conclusion that certain types of insanity tend to criminality more than others although any insane person is a potential criminal, particularly in the early stages of his affliction.

Dr. William Healy<sup>4</sup> makes a very practical distinction between the more severe and the lesser types of insanity, classifying them as major and minor psychoses, respectively. Under the head of major psychoses are placed such well recognized forms of insanity as dementia praecox, paresis, juvenile paresis, melancholia, manic-depressive insanity, epileptic insanity, and paranoia. And in addition to these is a group which Healy calls "unclassified major mental aberrations," where the persons are manifestly insane but whose symptoms do not tally exactly with any of the well defined types of the major psychoses.

In the group of minor mental aberrations are placed such conditions as hypomania or constitutional excitement, insanity which

<sup>4</sup> The Individual Delinquent.—Healy.

sometimes accompanies chorea (St. Vitus' dance), traumatic psychoses, that is, mental abnormalities which are the result of accidents, usually to the brain, menstrual mental aberrations, and the mental abnormalities often accompanying pregnancy. There are also such conditions as that of temporary loss of memory called amnesic fugues; abnormalities related to bad sex habits; hysterical conditions bordering on actual insanity; peculiar mental conditions which will sometimes appear at puberty in both sexes; actual insanity caused by drugs and alcohol, and other toxic substances.

It is not our purpose here to dwell at length upon these various types in detail. There are some forms of insanity, however, that are particularly prone to result in criminal acts, as, for example, paranoia, paresis, senile dementia, and manic-depressive insanity, in the major group, and alcohol and drug addiction in the minor group. One must also constantly bear in mind that major crimes may be the result of one of the so-called minor forms of insanity.

#### PARANOIA.

Unfortunately the most dangerous type of insanity, paranoia is usually the one most difficult to detect. The paranoiac is dangerous more particularly because he believes he is being wilfully and maliciously persecuted. Yet frequently he is able to perform the ordinary affairs of every-day life in a seemingly rational and normal manner. Moreover, he is often secretive, nursing his grievances in secret until the final culmination in some overt act.

This disease is the result of delusions acting on a mind having a constitutional taint—an inheritance that may have been developed in part by faulty training in childhood. Yet paranoiacs are frequently persons of unusual intelligence. They are the victims of delusions that tend to become systematized—that is, the delusions arrange themselves sequentially in support of a fixed idea, in a manner that can be logically explained by the victim, although obviously grotesque to others. Unfortunately, this idea is usually unpleasant in character, a delusion of persecution.

The disease often develops about the time of puberty, and as its development is slow, it may not be detected for several years.

A very common symptom in the beginning is a suspicion on the part of the victim that there is something queer in his personal appearance, and that people stare at him. He imagines that persons who pass him turn and look at him, and he suspects that groups of persons are talking about him, criticizing, and later, plotting against him.

He is unhappy, and feels himself out of harmony with his surroundings and fellow men. He feels that "he is not understood"; and frequently his idiosyncrasies are mistaken for marks of genius. And so they may be; but these "misunderstood" individuals are much more likely to be paranoiacs than geniuses.

Unlike the unhappy melancholiac who blames himself for his unhappiness, the paranoiac blames others for his misfortune. To the melancholiac the world is right, himself wrong; to the paranoiac the world is all at fault.

With this attitude of mind, then, he sees things in strange relations. For that matter, so does genius. But the genius proves his title by turning his unusual insight to practical account, while the visions of the paranoiac come to nothing except disaster.

The mind of the paranoiac is clear, and may be even brilliant. Thus the disease is not one of clouded intellect as in some other forms of aberration, but rather a condition of faulty judgment. Frequently these paranoiacs show great logicity in reasoning from certain premises on many subjects; but their shortcomings lie in their false judgment of themselves, and their abnormal suspicion of the motives of others.

The characteristic thing about the paranoiac's attitude is that his arguments may be perfectly logical, and might very well be founded on facts, but in cases in which the disease is destined to develop into true paranoid insanity, this need not be so, and frequently is not. Many of the fancied wrongs are of purely imaginary nature, perhaps a single focus in the beginning, but by adding and magnifying one fact here, and another there, always giving it the angle that makes it fit into the general scheme of persecuting thought, the paranoiac weaves an unbroken chain of evidence to support his false premise.

The danger mark in true paranoia is when hallucinations make their appearance, hallucinations that usually manifest themselves as imaginary voices, almost without exception threatening, or bidding the patient to do some violent deed. Thus the voices may seem to come from enemies, or as messages from God commanding the death of a king, or a president, or a member of the individual's own family. In any event they are likely to result in violence, such as the assassination of a Garfield, a McKinley, or a King Humbert. Yet the overt act seems entirely justifiable to the paranoiac, to whom hallucinatory voices are absolutely real.

It does not follow, of course, that every paranoiac who has delusions of persecution, as practically all of them do, will eventually commit some violence. There are many of these unfortunates who bear a cross, not a weapon. But there is always danger that the burden of the cross may become intolerable, and a spirit of revenge replace the one of humble submission.

It is important to remember that the signs of approaching, or threatened paranoia are frequently apparent to the immediate relatives and friends of the afflicted person long before an outsider, unfamiliar with his normal conduct, would suspect it. Such was the case with a noted attorney in Chicago some years ago. When such symptoms are detected, active measures should be taken immediately to try and correct them; for if the disease progresses to the stage of hallucinations, it is practically impossible to check its progress.

Despite the fact that the paranoiac is the most dangerous type of lunatic because of his logicality and apparent normality of thought, a vast majority of the milder types of paranoiacs remain at large in their communities. Frequently they are only regarded as queer or eccentric persons. Many of them are unable to hold positions for any length of time, because they believe that their associates persecute them in various ways. They imagine that their mail is tampered with, that other employes complain of them to their employers; or they suspect that misplaced articles have been purposely concealed to annoy them. Sooner or later they take their troubles to their employers, and frequently the reassurance they receive quiets their suspicions for the moment.



For the paranoid type of person usually performs his tasks with great proficiency, and for this reason he is likely to be in good standing with those for whom he works. But the effect of the employer's reassurance soon wears away, the ideas of persecution again dominate the diseased mind, and in the end the **paranoiac** leaves his position and seeks employment elsewhere.

Of course, his persecutors do not confine their efforts to his place of business, but carry their activities to the home or boarding-house of the victim or follow him to his new place of employment. He even sees evidences of their influence in his places of amusement and on the street, in the hundred and one petty annoyances of every day life. And so the unfortunate goes about in an atmosphere charged with dismal suspicions—a maze of tangled mysteries which center about himself. These are the men who are forever in litigation, in every instance honest in their own convictions! These are the patients who, when committed to asylums, secure habeas corpus hearings, conduct their own cases in court, and are forever convincing the jurors that they are sane and should be liberated, because of their ability to reason with such apparent logicity. Eventually they drift back into the insane hospitals again, but unfortunately this return may be deferred until their delusions have driven them to commit some frightful crime. In that event, it is often the electric chair, rather than the asylum, that closes the dismal chapter.

The less pronounced types wander from one place of employment to another, and from one place of abode to another, always seeking to evade their persecutors, but forever finding them haunting each new environment. As a rule they are great faddists; and this faddishness may be the first symptom that excites suspicion of their mental abnormality.

We have gone into this somewhat lengthy discussion of paranoia for the purpose of calling attention to the varied symptoms found in this most dangerous form of insanity. It is not our purpose to treat in detail the symptoms of several others less menacing, although frequently more obvious types. The mental condition of the "raving maniac" is too pronounced to escape detection in any company, and something the same may be said about cases of profound melancholia. Delusions of persecution

of a more or less well systematized nature are also found in other forms of insanity besides cases of true paranoia. Thus we have "paranoid states" occurring very frequently in other cases of insanity. The most pronounced and important of these is one that frequently accompanies the form of insanity called *Dementia Praecox*.

#### DEMENTIA PRAECOX.

This is the name given to a group of mental symptoms that frequently arise during adolescence, but which may occur at any period of life. The condition is probably hereditary in character, and when once fully established is usually incurable.<sup>5</sup> Formerly it was always considered hopeless, but fortunately we are now often able to predict a more hopeful outlook. It tends to terminate in intellectual deterioration or actual feeble-mindedness. In other words, the individual gradually deteriorates. But in the intervening period between the onset of the disease and the terminal dementia, these patients are likely to be a menace to society partly on account of an instability which often results in acts of violence or in various other forms of criminal behavior.

Typical cases of insanity of the *dementia praecox* type often present certain very definite symptoms of abnormal deportment. These may be summarized briefly as (1) emotional dullness—a general attitude of indifference; (2) mannerisms that is, the habit of assuming poses or attitudes; (3) delusions, often persecutory in character; (4) the lack of ability to stick to anything for any length of time—lack of applicability; and (5) exhibitions at times of what has been aptly described as a "puzzled stare" in the early stages of the disease which later develops into periodic attacks of "vacant" staring. In general there is inability to carry anything through to an effective end; often such individuals are idealistic dreamers; incapable of expressing thoughts in useful action.

The reader should bear in mind that frequently there is nothing in the patient's appearance, at least to casual observation, that

<sup>5</sup> Various theories are held in respect to the cause of *dementia praecox*. Some regard it as having its origin in the emotional life of the individual, that is, as a psychic form of insanity, originating in a complex.

would suggest a mental abnormality. This was true in the case of a young man recently tried in the Los Angeles courts. He was a distinctly good looking, clean cut, and somewhat dapper appearing young man. In contrast to the majority of insane persons his appearance was that of respectable normality. So much so, indeed, that had he passed along the line for inspection at Ellis Island, it is doubtful if even those experts, whose ability to detect mental abnormalities by momentary observation is unusual, would have detected his trouble. Yet his insanity could be demonstrated by a few moments of ordinary conversation, and his emotional indifference could be almost as easily brought out. This was not the sullen indifference of the brute, or the quiet indifference of the stoic, but the pleasant, vacuous indifference of the mild dement.

Seclusiveness, an abnormal desire to be by one's self, has been referred to as one of the characteristics of this type of insanity, as are also "mannerisms." To those unfamiliar with these so-called mannerisms it should be explained that the kind and duration of such grotesqueries is almost without limit. They range in degree from the mere position of a single finger or limb to almost unbelievable contortions and distortions of the entire body. Yet it is an accepted fact that whenever a true mannerism is present, no matter what the degree of intensity, it is almost infallible evidence of insanity and particularly of the type known as *dementia praecox*.

Insane mannerisms must not, of course, be confused with the natural peculiarities which characterize each individual. Every person assumes attitudes in walking, sitting, talking and in carrying out the affairs of every day life that are distinct from those of any other individual. But these are not mannerisms, strictly speaking. They are not strained or unnatural, but quite the reverse. The insane mannerism is a strained and unnatural pose.

Thus, in extreme cases, we see patients who assume positions of the limbs, and remain rigidly in these positions for hours. Again, we find a mannerism shown in a patient who, for example, keeps the thumb of one hand crooked into his palm and held there by three of his fingers, while the little finger is kept rigidly extended. Or perhaps the mannerism is one in which the patient merely raises his shoulders slightly, keeping them stiff and fixed



while he moves about. And between these slight mannerisms and the complete bodily distortions there is every possible range and variety of assumed attitude.

Moreover, the patient who has very distinct mannerisms may not exhibit them at all times. Frequently only certain things, or certain occasions, produce them, and this is particularly true in chronic cases. For example, there is at the present time the case of a person known internationally to the medical world who, under ordinary circumstances, shows no mannerisms whatever. When some stranger enters the house, however, and is presented, this aristocratic looking, cultured, and apparently sane individual is utterly transformed. His face twists to one side into a grotesque grimace, he seizes his left wrist with elbows thrown upward, his right leg twists inward so that he stands with the right knee pressing against the left, the foot turned and resting on its toe. And thus he remains in this tonic contortion for a period of fifteen seconds or more, after which he returns immediately to a normal posture and frequently joins in the general conversation.

In this instance, the exciting cause is the approach of a stranger, and the mannerism lasts only for a few seconds. But many insane patients of this type have persistent mannerisms which develop spontaneously as a result of their disordered mentalities.<sup>6</sup>

In this connection, one must bear in mind that keenness in observing human deportment is one of the greatest assets of the alienist. Like the Indian in following a trail, the alienist sees many things that escape the average observer. Indeed, this is the test of expertness. Like the knowledge of the Indian, this particular knowledge can not be acquired except through personal observation. It can not be learned from books.

"To the trained observer," said Spitska, "nothing is more suggestive of mental defect than the insane appearance, manner and actions."

As has been said, a lack of applicability of sustaining effort is one of the characteristics of *Dementia Praecox*. To be sure, mere lack of sustained effort alone is not evidence of mental aberration.

<sup>6</sup> We do not of course refer here to catatonic states which are so often observed in *dementia praecox*.



tion, but with the "vacant stare", or "stupid stare", which is repeatedly observed, it is of very great significance. This kind of more or less prolonged, or perhaps only momentary, purposeless staring is characteristic not only of insanity in general, but particularly of insanity of the dementia praecox type. Many observers have described this peculiar symptom as being in the beginning a "puzzled stare" in which the patient is obviously confused for the moment and sometimes expresses this confusion by saying "he does not know what ails him," or some similar phrase. It is due to a momentary jumbling of conflicting mental processes, and is most significant, although in the beginning of the disease it is a "puzzled" rather than a "vacant" expression. Later on, the puzzled element disappears and the facial expression becomes what may be accurately described as "vacant."

By adding together these varied symptoms exhibited—some of them apparently trivial—the expert can build a mosaic of insanity that is unmistakable. The elements of this mosaic, if examined separately, like the units of any other mosaic, frequently give a very inadequate idea, but placed together they furnish a perfect design.

It requires such a process to pass competent judgment upon almost every kind of insanity, yet the lay observer seldom does this. He sees the perfectly normal things that the insane person does and overlooks the little slips in deportment or speech that are really diagnostic features of importance. For one must bear in mind this important fact; at least a majority of the things that the average insane person does—what he says and how he says it, his actions, his appearance—are normal and exactly like the actions of any ordinary individual. Often only in rather seemingly inconsequential acts does he differ from normality; yet frequently it is this that determines whether the person shall be at large, or must remain in custodial supervision.

Consider, for example, the small percentage of mental abnormality in a certain group of eight murderers who came under our daily observation as life inmates, but "trusties" in a certain large hospital for the criminal insane. Each one was entrusted with some relatively important daily task, and performed it well and practically without supervision. One had charge of the library;

two were gardeners; a fourth was a man of all work who cared for the grounds outside the buildings; and the others worked in the shops. Each of these men enjoyed recreation, read the newspapers, and talked and acted for the most part like an ordinary normal individual, yet each was abnormal on certain subjects to such a degree that he had committed the most heinous of all crimes, murder. And any person, given the right cue, could quickly bring out the particular field of abnormality in each of these men—the mental obliquity that made it necessary to keep him permanently confined.

Here again we have exemplified the fact—a truth so difficult of comprehension—that a man is rarely insane in every particular, but that even a slight mental deviation in merely a fractional part of his higher intellectual centers may render him unfit to be at large in the open community.

SUMMARIZATION OF THE MAIN CHARACTERISTICS OF  
DEMENTIA PRAECOX.

1. This is a mental disorder in which there is splitting of the personality—a dissociation.
2. It occurs most often in adolescence and early maturity.
3. There is a definite tendency toward mental deterioration.
4. It may result in actual mental deficiency.
5. There is usually present the shut-in type of personality long before the insanity becomes apparent.
6. Mannerisms are common.
7. There may be exalted or depressed phases.
8. Emotional indifference is usual.
9. Negativism may be present.
10. Inability to put thoughts in useful action is characteristic.
11. Catatonic poses are often present.
12. Many cases are found among tramps, prostitutes, criminals, and unadaptable people in general.

## CHAPTER VIII.

### CRIMINAL CLASSES.

#### *Continued.*

#### THE INSANE.—CONTINUED.

We have discussed somewhat at length two forms of insanity which often lead to crime: paranoia and dementia praecox. Several other forms must now be mentioned very briefly in order to complete this discussion of mental aberrations.

#### PARESIS.

Paresis, or a form of syphilis of the central nervous system, is a common cause of criminal violence and also of many crimes against property. Some paretics commit murders, but not as frequently as do the true paranoiacs. Paresis usually develops insidiously and it often happens that the change in character of the individual which is so characteristic of this disease is sometimes quite unobserved or misunderstood and the anti-social acts resulting are often attributed to deliberate misbehavior even by the most intimate associates of the individual.

"Here we have a disease afflicting one when at the very zenith of physical and mental powers, (at middle life), insidious in its onset, yet capable of so changing the character in a few weeks (or months) that the previous honest, upright, moral, truth-loving, sober citizen becomes the votary of every form of vice, sinks into the depths of drunkenness and debauchery, and may even stain his hands in blood."

Alteration of emotion and change in character are the most marked peculiarities of this disease. There is often observed irritability and changeful mood; alternation of joy and sorrow; optimism and gloom; neurasthenic conditions and a host of other subjective and objective symptoms too numerous to mention. At

a latter period of this disease, also known as general paralysis of the insane, there occurs loss of memory, disturbances of consciousness and general disorientation. Lack of the usual good judgment soon appears, angry and impulsive acts, and in general the once sound, safe, reliable person becomes totally changed in his temperament and behavior.

Sooner or later there usually appears delusion of grandeur, ideas of persecution and illusions, while hallucinations may or may not develop.

"Manifesting itself in its incipency by lack of judgment, memory defects, and moral obtuseness, we frequently see the most pitiful of pictures—a previously respected citizen, father of a family, occupying an enviable social position, become, at the height of his career an ardent worshiper at the shrines of Venus and Bacchus. Friends and relatives see nothing in these manifestations but the out-cropping of original sin and are distracted by their inability to stay the career of drunkenness and vice upon which their erstwhile respected relative has entered."<sup>1</sup>

What White has here remarked about family and friends might, with as much force, be applied to courts which more often than not totally fail to recognize the underlying cause of the paretic's abnormal acts.

#### MANIC-DEPRESSIVE INSANITY AND RELATED FORMS.

##### I. *Melancholic Type.*

In respect to melancholia, which has been considered by some as a special form of insanity, but is much better considered as a phase of the manic-depressive variety of psychosis, this may very frequently contribute to crime. Persons suffering from this disease often have a fixed delusion of their own weakness, incompetence, or even criminality. They are, of course, deeply depressed and are likely to suffer from all sorts of unhappy conditions in respect to themselves or their friends. Such convictions may easily lead to suicide or homicide or to violent assaults. Often, as Mercier says, they are under the delusion that some

<sup>1</sup> Mental Hygiene.—Op. Cit.



terrible calamity is impending over themselves and those who are near to them; to prevent this they may take life. This sometimes may result in the murder of a child or children, a wife, a husband; men not infrequently thus murder an entire family and then commit suicide. Less often women do the same thing.

## II. *Exalted Type.*

In exalted states of insanity such as are found in the excited phase of manic-depressive insanity, or in simple hypomania, many crimes are possible. These include forgeries, passing bad checks, charging up extravagant accounts, and many other acts associated with an unnatural feeling of well-being. For example: a young traveling man whom we treated has had several attacks of hypomania, during which he rather suddenly begins to pass bad checks to pay for expensive dinners, automobiles, unnecessary clothes, the entertainment of women, and the like. He has been placed under arrest a number of times and, in consequence, has lost a number of excellent positions. His attacks usually last for a few weeks, after which he is quite normal and able to go about his business in a most competent and satisfactory fashion. During the normal intervals he is highly respected and respectable and entirely trustworthy in every particular.

It is worth noting that the manic-depressive type of reaction is found not only in insanity but in some normal people, and whether it is to be considered definitely pathological or not depends upon the degree of its intensity, which again illustrates the point that there can be no hard and fixed line set between insanity and certain rather extreme normal reactions.

## SENILE DEMENTIA.

A very considerable proportion of crime is committed by elderly persons who, in many instances, have hitherto led highly respectable lives. The condition comes on so insidiously as a part of the gradual deterioration normally incident to old age, that the underlying cause is usually overlooked by friends and relatives and is entirely misunderstood by most officials of the law. Crimes against nature (so-called), sex offenses against children, indecent

exposure, and indiscriminate petty thievery are in many instances committed by the senile demented, many of whom, however, are prematurely old. Murder is not unknown, particularly in connection with changed and irritating conditions of life to which the elderly individual finds it impossible to make new adaptations.

A man of sixty-two, who was prematurely senile, admitted killing his young wife and his step-son and afterwards burning their bodies. His wife was an adventuress who had induced him to make an unwise marriage. She had secured control of his property, wasted his money, harrassed, worried, and insulted him, and had been morally disloyal. He finally yielded to the temptation to do violence, but seemed to have a very confused idea of what happened and to be quite indifferent to the act. He was very religious and had led a highly respectable and successful life as a gentleman farmer in Indiana. No other act in the man's life had been reprehensible until soon after his first wife's death, about two years before his second marriage, when he began to show evidence of moral obtuseness in relation to women, and a lack of ordinary shame in the face of the accusations of his grown children. This was plain evidence of a very marked change in character and showed a definite break in his general morale. Soon after this he lost his financial judgment and made serious business errors. At last he was easily imposed upon by the woman adventuress, who induced him to marry her in order that she might secure his rather large estate.

Such a man is to be pitied rather than blamed and should be sent to a hospital for the insane, where his dementia would soon become obvious to every one. This was the course taken in the case described above.

An old cobbler was arrested for having in the back of his shop thousands of dollars worth of stolen property, including a great variety of things, none of which he had attempted to sell. This man was a senile demented, with a collecting mania. Investigation proved that he had at one time been a very respectable band-leader in an eastern city; but he had wandered from his home and his whereabouts had for a long time been unknown to his highly reputable family.

Further investigation showed that one year previous to his arrest in Los Angeles he had been arrested in another city for indecent exposure. After having been placed at the poor farm, he wandered away again and was found with difficulty.

On superficial observation this old man appeared perfectly normal and highly intelligent. It was only the unusual feature of his crime which attracted attention to the necessity for medical examination. Newspapers had played up his case as the clever "shoemaker burglar," without the least comprehension that the clever burglar was nothing more nor less than a poor old gentleman who had become demented and was sorely in need of practical, sympathetic assistance.

#### SUMMARY ON INSANITY.

"It is only when the highest levels of mind and conduct are disordered that insanity exists, and the test of insanity is, roughly, the non-recognition of the disorder (on the part of the person affected)." The insane person does not usually recognize that either mind or conduct is disordered.

"What is most characteristic of insanity is disorder of conduct."

It is commonly supposed that the insane must always have definite delusions, illusions, or hallucinations, but as a matter of fact insanity, according to Mercier, may exist with none of those being present.

Intelligence often persists unimpaired in some forms of insanity, while in others it deteriorates rapidly or slowly.

An illustration of unimpairment of intelligence is found in manic-depressive insanity, and paranoia, while in dementia praecox, paresis and epileptic insanity, mental dilapidation occurs more or less rapidly.

Insanity often comes on so insidiously as to be almost unobserved by relatives and friends. Actual insanity is often regarded by the laity as only a temperamental change, or as deliberate stubbornness, incorrigibility, immorality, criminality, sullenness and the like. Marked changes in personality, emotional life and conduct in general should arouse the suspicion of the presence of

insanity. Our mental characteristics are largely fixed very early in life, and we do not normally greatly depart from them.

Crime and insanity are often related.

The prevention of insanity is now possible in many instances.

The causes of insanity are many and complex. Among the most important are hereditary predisposition; syphilis; various other infections including certain focal infections; trauma; mental states produced by such conditions as isolation, shock, repressions, and the like; toxins such as those from alcohol, lead, morphine, various drugs and certain auto intoxications. It is probable that no one factor alone ever produces insanity. Many things to which insanity is attributed are in fact nothing more than indirect or exciting causes acting upon an already unstable nervous organization.

The purely psychological theory of insanity is as yet unproved.



## CHAPTER IX.

### CRIMINAL CLASSES.

#### *Continued.*

#### THE INSANE.—CONCLUDED.

#### *Misconceptions of Insanity in Jury Trials.*

The average layman knows very little about insanity, less perhaps than about almost any other important form of serious disease. But the layman is not aware of his ignorance, and apparently the law is not aware of this either, otherwise, we would hardly leave the decision about so important a matter in criminal trials to the judgment of twelve laymen.

If the jurymen could rid himself of some of the popular but false ideas in regard to insanity, it would make things much easier for the alienist and afford a step in advance for the cause of criminal justice. For example: it is the general belief that anyone can tell an insane person when he sees one, and it seems almost a reflection upon any person's intelligence to suggest that he can not do so. It is the popular belief that insane persons are abnormally strong; that the insane man realizes that something is wrong with him; that it is an easy matter to railroad anyone into an asylum; that a high percentage of inmates of insane hospitals are not insane, but are simply detained there on one pretense or another; that insane persons are usually highly excited or most peculiar in their behavior; that if a person under rather casual observation can talk in a rational manner, and particularly if he has a good memory and good intelligence, he can not possibly be insane. All these things may, however, be classed as popular delusions, because, in the main, they are false ideas.

The reasons for these false ideas about insanity are rather easily discoverable. False ideas of every sort are persistently handed down from generation to generation, and it is most diffi-

cult to correct these old impressions even when they concern the most tangible sorts of things. In the case of insanity it is particularly hard to do so, since very few persons, relatively speaking, ever come into close contact with insane patients, and a still smaller number of persons ever visit the institutions where the insane are confined, so as to gain any accurate first-hand knowledge. The average person is not at all interested in insanity unless, perhaps, in an occasional case occurring in fiction, in one's own family, or in the perennial newspaper semi-fiction about notorious cases, so that it follows that anything like accurate knowledge of insanity is restricted to medical circles and to a very special field in medicine, at that. Under the circumstances, therefore, we should expect to find many miscarriages of justice in cases of suspected insanity that come before the courts; it could hardly be otherwise, under the circumstances. It is, however, our present method of conducting such cases rather than the individuals connected with them that should be criticized for the existence of this state of affairs.

In point of fact, most of the actions, even of very insane individuals, are frequently those of normal, sane persons, and the insane are rarely so insane that all actions and behavior are completely different from those of the average normal human being except, perhaps, in some extreme cases of insanity. The popular conception of a lunatic is that of a maniac who raves incoherently, possesses the strength of two or three ordinary persons, and exhibits a crafty intelligence quite beyond the range of ordinary human beings. Singularly enough, however, when cases in which the plea of insanity is made do show ordinary or superior intelligence, as they frequently do, the jury at once decides that this is a very strong point against the plea, forgetting or failing to know that *intelligence* and soundness of mind have little to do with each other. Among the insane one frequently observes individuals who possess the highest types of intelligence and whose insanity is only evidenced by their faulty forms of reasoning, that is, they are logical enough, but their conclusions are based upon faulty premises, or, in other words, they are obsessed with delusions.

The cases of the raving maniac are quite the exception even in public insane hospitals, and the most dangerous types of insane persons (the so-called mono-maniac) are frequently neat in appearance, quiet in demeanor, and capable of carrying on a perfectly rational conversation, or of writing about subjects rationally, that do not touch directly upon their particular delusion or delusions.<sup>1</sup> Many insane murderers fall into this category, such as the assassin who killed President Garfield, the one that killed President McKinley, the man who took the life of King Humbert of Italy, and hundreds of less notorious mad men. It will be recalled that the man who attempted the life of President Roosevelt was transferred from a prison to an insane hospital shortly after his conviction as a "legally responsible" person.

All things considered, therefore, it is evident that the average person knows quite as little about insanity as he does about other forms of obscure diseases. It is little wonder, then, that trials by jury to determine an individual's mental status are likely to be "something of a joke," as recently suggested by a prominent jurist. Indeed, the result of our archaic method of permitting lay juries to pass judgment on a question of insanity is in fact a travesty of justice. Insanity is a definite disease, not a possession by demons, as was commonly believed up to about a hundred years ago, and it is just as illogical to ask twelve untrained laymen to pass judgment on this pathological condition as it would be to expect them to give correct decisions in cases of suspected leprosy, pellagra, or typhoid fever. Yet the presence of any one of these diseases is more obvious to casual observation, and the symptoms are more apparent to the average layman, than are those of most cases of insanity.

The number of cases that could be cited to confirm our observations in respect to miscarriage of justice in our own courts alone would fill volumes, indeed they do fill volume after volume of court records, as, for example, in a recent nationally notorious murder trial, which lasted for over nine weeks and included over a million words of testimony. The expenditures in such trials

<sup>1</sup> Cases of individuals confined in asylums who regularly contribute to periodicals are not unknown. Others are excellent musicians, artists, mechanics, and the like.

represent thousands and thousands of dollars which might rather easily be avoided by a simple, direct and wholly reasonable change in our process of legislation. Apparently, this is fully appreciated by many of those connected with the administration of the law, yet nothing definite is done about it. This curious credulity and ignorance of courts and laymen about insanity and our anomalous state of judicial procedure is frequently taken advantage of by clever lawyers, as is illustrated in the following case:

A certain woman client of a reputable attorney conceived the idea that he had defrauded her, and since she could not convince the authorities that such was the case, she took the matter into her own hands in a manner quite characteristic of a typical paranoid insane person. Her method of this accomplishing was by discharging a revolver at the attorney, which convinced him, as well as some others, that the woman was mentally unbalanced, and finally landed her in the Psychopathic Ward for observation. Here she was quickly pronounced insane by the Lunacy Commission, but, as is usual in such cases, she demanded and secured a jury trial. The new attorney which she now employed, being wise in the ways of juries, and having had considerable experience with insanity cases, and being determined to prove the woman's mental soundness, consulted an alienist friend. This alienist, after looking over the history of the case, assured the attorney that the woman was unquestionably insane and afflicted with a form of insanity that made her particularly dangerous. The alienist advised the attorney, however, that he would have no difficulty in winning his case and in proving that his client was entirely sane, regardless of what the Lunacy Commission may have thought, and added that the jury would probably be guided in its opinions solely by the appearance and actions in court of the woman herself. The attorney recognized the wisdom of this advice from his client's and his own point of view and the result of the trial confirmed it, for, despite the fact that the physicians of the Lunacy Commission had testified that the woman was insane, and in addition two Judges of the Superior Court were placed on the witness stand and testified their belief to the same effect, the jury declared her mentally sound and she was given her liberty,—a



menace to any person who might in the future cross the path of her abnormal suspicions.

The following cases illustrate some other legal complexities that sometimes develop in insanity trials. A certain prisoner in the Los Angeles County jail acted in such a peculiar manner that the officers suspected him of being mentally unbalanced and he was sent accordingly to the Psychopathic Hospital for observation, and eventually brought before the Insanity Commission, which promptly pronounced him insane. The prisoner, like most persons who are actually insane, demurred from this opinion and immediately demanded a jury trial, and as this request must be granted in California, regardless of the findings of the courts and Lunacy Commissions, or of the obvious insanity of a patient himself, this man was brought before a jury of laymen to pass upon his mental state. At this trial there was no evidence presented to indicate that the man was of sound mind except the statements of the man himself, and these statements were so confused and incoherent that they could never have deceived any ordinary medical observer. But they did deceive the jury, despite the overwhelmingly expert evidence to the contrary and the man was, by due process of law, declared "not insane." As a result of the verdict, this man was then placed on trial for the crime of which he had been accused, and was promptly convicted, but during the trial, which lasted for several days, his behavior in the court room was so unusual that even the Prosecuting Attorney and the Court were convinced that the man was mentally unbalanced. Accordingly, he was placed on trial for the fourth time and at this trial was finally pronounced insane by the jury. Thus, by the circuitous route of passing through four different courts, this obviously insane man finally arrived at precisely the same goal that was suggested in the first place by the original Lunacy Commission. He arrived at the same goal, indeed, but by a very different financial route, involving hundreds of dollars to the county as against a possible \$25.00 had the original decision of the Lunacy Commission been accepted.

Only about a month later a very similar case occurred in the same county. In this case, as in the other, the man, accused of a minor crime, was pronounced insane by the Insanity Commis-

sion. He likewise demanded a jury trial and the jury promptly pronounced him sane, despite the clear evidence to the contrary. This man was, however, less fortunate in the criminal action which followed, as he was duly convicted and sent to prison as a responsible person. But the ultimate result was the same, for after a short period of incarceration this man's behavior was so manifestly insane in character that he was transferred to a state asylum, where he still remains and where he will continue to remain as a permanently irresponsible ward of the state.

In the murder trial, already referred to, which has attracted international attention, partly because of the high social and educational status of those involved, it was the opinion of five alienists of unquestioned professional standing that the defendant was insane, incapable of properly advising with his attorneys for his defense in the trial, and irresponsible for his act, if he committed the crime of which he was accused. In this case the trial judge was permitted by law to first have the prisoner tried for insanity and legal responsibility if the evidence presented to him was such as to establish in his mind "a reasonable doubt" as to the prisoner's sanity and responsibility. A petition to this effect was denied, despite the fact that ancestry was extremely bad on both sides of the family in respect to mental stability, an ancestry which involves, in fact, mental deterioration or actual insanity in nine great-uncles and aunts, mental inferiority in one uncle, insanity in one cousin, on the paternal side, insanity in one uncle on the maternal side, feeble-mindedness in one cousin on the maternal side, and other cases of mental instability in his family, one of them resulting in suicide. The amount of money involved in the trial of this case, which thrice resulted in a disagreement by the jury, was sufficient to provide for the most modern form of scientific criminal investigation and responsibility determination, for this and other cases for years to come; yet such is the force of public opinion and the effect of custom that one can at present see little hope for any immediate change of such an ineffective legal procedure.

These are a few examples of the many cases that could be cited as filling our court calendars in California and elsewhere. They represent a waste of money and frequently flagrant miscar-

riages of justice. Apparently this is all very fully appreciated by many of those connected with the administration of the law, yet little effort is made to correct the situation. To be sure, now and again a group of individuals does make some serious efforts for the establishment of a more modern form of procedure. Indeed, only a short time ago one of these changes made such a vigorous bid for existence that it finally worked its way through both state legislative bodies and to the governor's desk before it succumbed. But at that, it apparently is merely "taking the count," not actually dead, as will be shown a little later. There seems to be some explicit reasons why such a law becomes sidetracked in our legislative machinery and finally fails to pass. Among these reasons, the following seem to be the most important: (1) The opposition of certain influential criminal lawyers, who would be deprived of an opportunity for a certain kind of professional pre-eminence; (2) the opposition of certain sensational physicians, who are in effect professional witnesses, and who would lose the glamor and publicity of our present criminal court trials if statements were confined to an unobtrusive report to the trial judge; (3) the influence of certain judges of criminal courts who enjoy the publicity afforded by the present methods employed in criminal trials; and (4) the general indifference of the public at large towards anything that concerns insanity in any scientific sense, and its general lack of initiative in originating anything new in matters pertaining to criminal procedure.<sup>2</sup>

In the meantime, there are several factors not actually involved in the legal machinery that tend to direct or divert legal justice. Among these factors, the newspapers are probably by far the most important. It is a popular jest that important murder trials are conducted by the newspapers. There is only a

<sup>2</sup> Lack of initiative in matters of criminal procedure is probably no more remarkable than the same kind of lack observable in our educational methods. "Mistakes in our present educational methods are only too evident if we count the number of unfortunate people filling the police courts, almshouses, reformatories, hospitals for the insane, and sanatoria for the cure of nervous disorders; maladjustments representing only different phases of one great unsolved problem (ill-adjusted lives)."—Stewart Paton.



modicum of truth in this statement, of course, but nevertheless in every important murder mystery we find newspaper representatives acting as amateur detectives, searching out evidence, relating incidents and expressing opinions, and when the subject seems to be worth the space, the papers put on special writers and make capital and copy of all the important as well as trivial incidents of the trial. Since most of our knowledge of everyday events is based upon newspaper statements, this influence can not fail to insinuate itself into the jury room, and thus, in a measure at least, criminal trials are influenced by the public press. Will anyone pretend that the average juror, whose everyday knowledge and, in many instances total knowledge, has been absorbed for years almost exclusively from newspapers, can suddenly divorce himself from that influence? That this influence is occasionally deliberately misleading, no one can seriously doubt. Some observer has remarked that the newspaper is the "lay Bible" of this great American Republic, and that courts can not escape its influence. Newspapers are conspicuously and professedly partisan and wield an immense political influence, which few courts can entirely ignore.

However, there seems to be very little that can be done about it, for there is no indication at present that newspapers are likely to change in their methods or content. It would, however, seem possible to make some improvement and therefore progress in criminal law by changing the manner of taking expert medical evidence in criminal cases, where the sanity of the accused is in question. According to our present methods, such testimony is largely unscientific, partisan and undignified, and tends to discredit both the medical and legal professions, and it frequently totally fails to serve the ends of justice, as already indicated. According to the methods now in vogue, medical experts are employed both by the prosecution and by the defense, thus in the very beginning tending to make the whole procedure, from the examination of the patient to the testimony given before the jury, a purely partisan affair rather than an impartial scientific attempt to arrive at a correct diagnosis. This is the antithesis of the method employed by reputable medical men in their usual attempts in the diagnosis of disease. Under the circumstances, it is



difficult for the physician, even when making the examination, to obtain the actual facts about the personal history of his patient or about his heredity, as he is frequently furnished only such items of information as partisan representatives of the law choose to give him. As a result, the alienist is likely to reach erroneous conclusions, although they may be honest ones and justified by such evidence as is presented to him. It follows as a natural consequence, therefore, that the statements of the expert witnesses before the court represent biased opinions. These opinions are still further distorted by the manner of cross-examination now commonly in use, which, as recently pointed out by a reputable Deputy District Attorney, is not likely to bring out any new facts or amplify the facts already in evidence. Such examinations tend to make the witness more partisan than ever in his statements, particularly because of the methods of petty heckling usually employed by the legal representatives of both sides.

The result is not necessarily evidence of dishonesty on the part of the physician, but a perfectly natural reaction to an unreasonable situation. The outcome is not likely to be much of an addition to the cause of justice and truth, for one set of attorneys will attempt to warp the physician's judgment as far as possible in one direction, while the opposing lawyers will attempt to discredit it from the opposite angle. This whole procedure tends to throw discredit on both the legal and medical professions and to deter the best qualified men in their professions from appearing in criminal trials at all. The whole procedure can not fail to have a certain unfavorable influence not only upon the jury but upon the public at large, and bring criminal procedure into disrepute.

Now, in point of fact, the sole function of the medical witness at any trial is simply to determine whether the accused man is suffering from mental disease, just as it ought to be at any other kind of medical consultation. He should not be concerned with a question of guilt, innocence, or punishment, yet the practical effect of existing methods is to force the physician to share the legal responsibility as to the outcome of the trial, and the professional success of the side he represents. In actuality, he becomes a professional partisan witness, whether he wishes to or not.

Another deplorable thing about our present system is found in the lack of any standard of qualification in the matter of expert witnesses in insanity cases. Judged by its attitude toward such witnesses, the law does not regard insanity as a disease in the same sense as it does other pathological conditions. For example, in the case of ordinary diseases, the positive opinion of one physician outweighs the contrary opinion of any number of lay observers. In such cases the statement of the village cobbler, blacksmith, carpenter or constable to the effect that he did not believe a certain person had tuberculosis or syphilis, would have no weight as evidence against the positive statement to the contrary by a competent physician. Such is not the case in deciding the much more difficult problem about the very complex and often obscure disease—insanity. In such cases any person may, and often does, express his opinion, and the very bulk of such testimony carries great weight with the jury. It is a common, although hardly an elevating spectacle, at murder trials, to see whole groups of incompetent persons who have been associated with the accused, and representing all degrees of intelligence, delinquency, and criminality, give their testimony and state their opinions about a prisoner's mental condition. The unreliability of these witnesses is plainly evidenced by the fact that they often include other prisoners, prison guards of inferior ability, and in fact any person, no matter how incompetent, who may have observed the accused. Yet the court accepts such testimony including the word and opinion of men whose lack of integrity is indicated by their incarceration, and upon a subject requiring high expert knowledge and unimpeachable honesty. There can be no question, then, that our present methods of conducting trials in which the sanity of the defendant is in question, are highly unsatisfactory and unscientific. Yet the remedy while complex may be rather easily applied. As referred to already, this remedy has been suggested in California and elsewhere a number of times. Judge Frank F. Oster has proposed a statute for the consideration of the California State Legislature, which, if enacted, would greatly simplify criminal trials and elevate criminal procedure to one of scientific accuracy and dignity, which no one familiar with the facts could claim exists at present. This bill largely removes partisanship in

expert testimony, places responsibility for the selection of alienists in the hands of the trial Judge, and greatly limits the possibility for the introduction of prejudiced or frankly dishonest professional witnesses.

While it is true, as stated by Professor A. M. Kidd in an article in the California Law Review for March, 1915, that such a bill does not entirely abolish partisan witnesses, it does greatly reduce partisanship, largely by allowing only ordinary witness fees to experts called by either side in addition to those formally selected by the trial Judge. The objection may be made that the Court itself may be in no better position to select experts than are the litigants, because it may not possess special knowledge of medical or other highly specialized professions.

Politics, Professor Kidd thinks, hamper the action of most judges and of certain political experts. This objection may be largely obviated, however, by providing for the selection of experts from a group certified in some manner as professionally and personally reliable. This might be brought about through the action of a council to be appointed by the American Medical Association, the American Psychiatric Association, the American Association of Criminal Law and Criminology, or by some other unprejudiced and responsible organization. As matters stand at present the word of a medical witness untrained in psychiatry and often one of a very low order of medical ability, is as acceptable in court as that of any highly trained psychiatrist. It appears that the solution of the whole matter of expert testimony is extremely complicated and difficult but in spite of this fact, it remains that something must be done. If the bill referred to, or something like it, will not serve the purpose of relieving criminal trials of their present obvious weaknesses, and actual abuses, then some other method must be attempted. Perhaps Professor Kidd's suggestion that when expert opinion is desired, each profession agree upon which of its members are qualified to act as experts, and that such experts be exclusively chosen for testimony in court, will prove to be the best method of procedure.

As has recently been said in the editorial page of the Journal of the American Medical Association, it is doubtless true that the introduction of better methods than the present ones rests largely

with the legal profession, but physicians in general and particularly all who are interested in jurisprudence, will strongly favor the adoption of some system that shall increase and not hamper the services which psychiatry properly used can render to society in medico-legal matters.



## CHAPTER X.

### CRIMINAL CLASSES.

#### *Continued.*

### THE PSYCHOPATH.

Under the term "psychopathic personality" a number of character anomalies are included which can not be said to constitute a psychosis, and yet the individuals referred to in this group are so inefficient in their manner of adjustment to life requirements that they must be considered border-line cases. Such individuals may approach, in their make-up, a number of other mental disorders without actually being classifiable under any of them. For example, they may be hysterical, unresistive, ill-balanced, eccentric, depressed, exalted. They may be liars, swindlers, degenerates, malingerers, "moral imbeciles," chronic neurotic fault-finders, and the like. There is found in all of these people an incapacity for dealing with reality at a high level.

They thus show relationship to such mental disorders as hysteria, paranoia, manic-depressive insanity, and various neuroses. As to the cause or causes of the psychopathic type of constitution, little is as yet known. Defective metabolism, mental complexes, and various functional mental defects are all factors which must be considered. As Healy says, the general characteristic of this type is abnormal reaction to some of the ordinary stimuli of life.

Unusual reactions are almost universal in members of this class. They are often eccentric, selfish, irritable, very suggestible, and easily fatigued mentally. The ease with which they fall into anti-social conduct has often been observed. Healy notes particularly weakness of will, inability to cope with the social demands for self-restraint, the peculiar feeling in some cases of impotence, the pathway plentifully sprinkled with good intentions.

Among this host of constitutional defectives are found many of the alcoholics, drug users, prostitutes, sex perverts, hoboes, swin-

dlers, liars, and petty thieves. This kind of abnormal constitution is at the bottom of many of the divorce court cases. Incapacity for adjustment to ordinary conditions of life is perhaps the most characteristic feature of this class, this apparently being based upon inability for following out anything consecutively and systematically to the end.

The care of persons who are actually insane presents many difficulties, but an even greater problem is presented by these border-line cases, these persons whose mental balance is not quite normal, yet who are not sufficiently unbalanced to be pronounced actually insane. Popularly, they are often spoken of as cranks, queer, eccentric, and the like, and they are found in every community. Considered collectively, this vast army of border-line cases is a constant menace to their communities, largely because it is only a short step to actual insanity. But even when this step is never taken, many of these individuals exhibit peculiarities in deportment which get them into serious trouble. The consequence is that they are the despair of their friends and relatives, often causing the greatest possible sorrow to the innocent. In the long run, they probably do more harm than the frankly insane and feeble-minded combined, because they are less well understood and therefore unrestrained. Confidence placed in them is doomed to disappointment. Their lives are always paved with good intentions, which are seldom put into practical effect.

In many instances their slips in conduct are merely troublesome, but not infrequently they result in actual crimes. They possess various anomalies of character, as already indicated, which lead to the inefficient life adjustment of many kinds. There is an almost endless variety of mental peculiarities included among these individuals of unstable personalities. There are, for example, the pathological liars, who indulge in childish fabrications, or something more serious and seem never to outgrow this habit; the dipsomaniac and drug addict; some, at least, of the kleptomaniacs; many of the sex perverts, and some forgers. Lying, in various forms, is very commonly observed. In one western rural community, for example, there was a man known to everyone as "Lying Davis." Indeed, he frequently referred to himself by this term and seemed very proud of the dis-

tion. He lived on a large farm, which he had inherited from his parents, was married, and had a family of several children. He had always been given to exaggerations, which were looked upon by his boy companions merely as a peculiarity in temperament. By the time he had reached middle life his inefficiency had become more marked and his lying had become a veritable obsession. Everybody recognized the abnormality of this man's condition, but did not suspect the true basis of his peculiarities. Eventually his inefficiency became very patent, and his farm, although naturally fertile, now produced only half or quarter crops, and his business affairs became badly disorganized. Finally, with debts and mortgages, the farm went into other hands and Davis wandered on the descending road to pauperism.

The defect here was not one of intelligence, but of inadequate personality with consequent inefficiency.

Another quite common example of the border-line, psychopathic constitution is found in the person who persistently commits what might be termed purposeless forgery. Frequently these persons are members of respectable and prosperous families and have received the kind of training that makes for uprightness of character, yet something is missing in their mental mechanism, which leads them now and again into criminal acts, for which there is no adequate provocation or excuse. In some instances these individuals approach the manic-depressive type without being actually insane. In one of our courts recently, a man of thirty was brought up on a charge of forging a check. An investigation of the case showed that the prisoner, as a boy, had been reared in somewhat more than comfortable circumstances, so that all his reasonable wants, or desires, were supplied. He had managed to get through high school and college in an indifferent way, showing no particular aptitude for any one thing, or desire to do or be anything in particular. He was a pretty good fellow with the crowd, having no pronounced vices, but too indifferent and too indolent to be particularly good or bad about anything. Every reasonable want was supplied him by an indulgent parent.

He had begun forging checks in early youth and, as a result, had passed through all the usual phases of moral correc-

tional methods. But moral teaching, argument, and even legal restraint were all without permanent effect. Regardless of what had happened to him or what might happen to him, he would forge checks on occasion. He was not really criminalistic in the ordinary interpretation of the term, but, rather, his obsession was in effect, if not in fact, a mild psychosis or a border-line condition.

Many of these border-line cases show their mental instability in their reaction to the effect of certain drugs such as narcotics and stimulants. In many instances a very minute quantity of one of these drugs will produce effects that would only be expected from poisonous doses given to an ordinary normal individual. In other cases the effect produced is an amnesic condition in which the victim does not realize what he is doing and frequently indulges in fantastic acts of a criminal nature, of which he has little or no recollection afterward. An excessive indulgence in coffee or tobacco is often observed in mild psychopaths.

A case in point is that of a man who divides his time about equally between the inside and the outside of jails and prisons, and reveals his idiosyncrasy to the effect of narcotics by buying and selling other people's property. His penchant just at present is for buying and selling automobiles, which he accomplishes with great dexterity while under the influence of a narcotic, although he remembers nothing of the transaction after he "sobers up" in jail.

An interesting feature of the case is the fact that this man, when he is not under the influence of a stimulant or narcotic, is rather a stupid, and unprepossessing, individual who would not be capable of wheedling any reasonably intelligent person into selling him a car on a verbal or written promise, rather than money. The man gives the history from childhood of always being aimless, indifferent, and shiftless—a typical ne'er-do-well, but not particularly vicious; yet when under the influence of a narcotic he becomes an active and successful, although entirely dishonest, business man. His transformation under the influence of the drug is amazing. In proof of this, witness one of his recent escapades in which, although penniless, he induced a shrewd dealer into selling and delivering an automobile to him; went to a bank where he was not known and had no ac-



count, taking the dealer with him and showing such keen intelligence in explaining how it happened that his expected money had not arrived, that he persuaded the dealer to take a worthless check signed in the presence of a keen bank official.

The following case is typical of the psychopathic constitution: A man, twenty-six years old and of unusually fine personal appearance, was arrested for passing worthless checks in Los Angeles. He had lived in this city for several months, having come here from a southern state. He had passed checks amounting to about one thousand dollars within a period of a few days. This young man gave evidence of high intelligence and a high degree of culture and education. He was a graduate of the University of Virginia; had studied law, and traveled abroad. He had made friends in Los Angeles rapidly, many of whom had cashed his checks without question, only to discover that he had no funds in the banks on which they were drawn. According to the usual procedure, this man would have been dealt with as a common felon and might have been given a penitentiary sentence.

An investigation, however, brought to light the following significant facts: This offense was only a repetition of what had occurred many times before in several other cities. In every instance his family had come to his rescue. His history showed a very irregular life, including minor delinquencies in childhood and youth and much nervous instability. At an early age he had been married and soon divorced; later he had contracted a second unwise marriage followed by separation from this wife; he had had many irregular relations with other women; he was a periodic drinker; his word was totally worthless—he was, in fact, a pathological liar; he was an inveterate smoker of cigarettes; he had never profited from his liberal education or in any way established himself in life. Experience had taught this man nothing and he was, consequently, always in trouble. Despite his pleasant manners and high intelligence, he had never been dependable in any particular. The parents of this young man had spent a fortune in trying to establish him in life and in saving him from disgrace, all without avail, and now, broken in heart as well as in finances, they faced criminal disgrace and financial ruin.

In the family history there was comparatively little that was pathological in character. One uncle was alcoholic and mildly psychopathic. His mother was rather nervous but highly efficient and practical. His father was a judge of very high repute. One uncle was a surgeon of exceedingly high reputation. In the main, therefore, his heredity was excellent.

For an expert the diagnosis of such a case is fairly clear. This man is a constitutional defective of the psychopathic type, a person of highly unstable nervous organization, in whom moral sense is very little developed and in whom experience plays little part in the regulation of life to social requirements. He is irresponsible and there is little hope as far as permanent reform is concerned. He is the kind who, with the best intentions, forever fails in his good resolutions.

He will probably never succeed except under supervision of some sort, and the right kind of supervision for such cases is most difficult to obtain. A colony-farm, such as that suggested in another chapter, would be the best sort of a place for him, but as such colonies do not exist at present, the only alternative would seem to be imprisonment or commitment to a hospital for the insane neither of which really solves the problem. In this case the latter plan was put into effect with no great hope of final success. Such tragic cases as this one are found everywhere, and the amount of trouble and anguish which they cause is incalculable and out of all proportion to their value to society. Many a family is disrupted by one individual of this character.

Possibly the scientific developments of the future may uncover the underlying causes, perhaps some metabolic disturbances, as Adler has suggested are active in these cases; but at present we are largely in the dark concerning them. It is significant, however, that in the majority of instances a neuropathic heredity is discoverable.<sup>1</sup>

<sup>1</sup> Goddard has recently emphasized the fact that much of juvenile delinquency has its basis in the psychopathic type of make-up. The early recognition of this sort of constitution might perhaps go far toward the prevention of later delinquent careers, particularly if as seems not improbable, many of the cases have their origin in disorders of the endocrine (ductless gland) system.

It is entirely futile to attempt a detailed description of the psychopathic type within a limited space, but the reader may form a very definite opinion of the sort of cases referred to here by drawing upon his own observations. Most of us have at one time or another lived in small communities, and most of us will recall that in such communities there was always one or more persons who were considered as peculiar and not entirely responsible. Perhaps it was a religious fanatic, a confirmed liar, a victim of a wanderlust, a sex degenerate, an alcoholic, a kleptomaniac; but whatever the type, the person or persons in question were looked upon by the members of their community as not quite normal, and yet in some respects, and often in many, they might be competent and sometimes even brilliant.

Perhaps this conception—this drawing upon our own recollections and experiences—will convey a more tangible idea of these border-line cases than would a protracted description. In any event, these queer and not quite natural persons present tremendous problems to every community, and in a later chapter we shall offer a suggestion for a method looking to the solution of this problem, which as yet has never been met successfully.<sup>2</sup>

<sup>2</sup> Dr. Paul E. Bowers says of psychopaths in "Crime and Insanity", International Clinics, "Their mental twists, so to speak, make it impossible for them to live at ease in their environment. Their distorted mental perspectives lead them to magnify the wrongs they see in the social organism. They are dreamers, reformers, propagandists, and curbstone socialists." Regis has said, "Their lives are one long contradiction between the apparent wealth of means and poverty of results."

## CHAPTER XI.

### CRIMINAL CLASSES.

*Continued.*

#### THE EPILEPTIC.<sup>1</sup>

Epilepsy manifests itself in variety of forms and is found as a factor contributing to many crimes and delinquencies. This fact was recognized and given consideration even in the old Roman laws. Lombroso in his early studies came to the conclusion that most criminals are to some extent epileptic, so much impressed was he with the frequency of the occurrence. Observations by later and more exact authorities have however greatly reduced the early estimates of the number of epileptic criminals and delinquents but this disorder still remains as one of the most important factors to be considered in a study of crime and criminals.

Individuals subject to epilepsy or epileptic equivalents may give evidence of it by obvious convulsions with unconsciousness, by momentary loss of consciousness, without convulsions, by nocturnal attacks only, by epileptic automatisms, and dream states, by a combination of these conditions, or by merely an epileptic type of constitution. In the last mentioned condition it frequently happens that neither the individual nor his family recognizes the presence of any very unusual disorder and all are surprised to learn that what had been considered peculiarities of temperament are in fact nothing more nor less than manifestations of epilepsy.

In some families the exhibition of extraordinarily bad temper in certain individual members is a manifestation of an hereditary defect in temperament often passing through several generations. Some of such persons are not infrequently epileptic in makeup, and a careful investigation into their family

<sup>1</sup> Seneca tells how Hercules slew his wife and children, in words which perfectly describe an unconscious automatic epileptic state. See "Crime and Insanity."—Bowers.



history will frequently reveal typical cases of epilepsy among their near or distant relatives.

The epileptic temperament manifests itself by such characteristics as violent temper, sullenness, cruelty, sexual uncontrol or actual perversions, impulsiveness, obstinacy, irritability, inconsistency, and a variety of marked temperamental peculiarities.

In the so-called dream states, epileptics may travel about, take up new occupations, marry, commit bigamy, or even terribly violent crimes, and later have little or no recollection of what has occurred. This condition represents an automatism or epileptic equivalent and may be present without convulsions or with only unobserved convulsions. In this psychic form many of the otherwise unaccountable acts of some individuals are readily explainable. Many of the newspaper accounts of people who have lost their memories and have been picked up by the police to whom they can give little account of themselves, refer to individuals of this character.

This is a point on which the police and the courts need much enlightenment, as many such individuals reach the police station rather than the hospital where they really belong.

Insanity in conjunction with epilepsy, often in the form of epileptic furor is often met with, and this is usually of an extraordinarily violent character, resulting not infrequently in the most hideous of crimes against persons. Under such conditions the epileptic may indeed become a veritable "wild-man."

Epilepsy and feeble-mindedness are frequently observed and it must not be forgotten that this disease tends in the majority of cases to progressive mental deterioration. But in whatever form epilepsy may occur, whether as marked convulsions, slight convulsions, momentary loss of consciousness, confusion, automatisms, changed personality, or merely as temperamental peculiarities, its relation to crime and delinquency—that is to abnormal behavior, may be extremely important. Healy noted seven per cent of epilepsy in one thousand juvenile delinquents in Chicago. Among adult offenders it is probably more frequent than among juveniles. The explanation of the relation

between crime and this disease is no doubt found in the general instability of the nervous organism with consequent lack in the powers of inhibition. In general it is observed that epileptics possess a very neuropathic ancestry in which alcoholism, feeble-mindedness, and sex perversion are very common, among many other pathological traits.

As Church and Peterson have observed, "heredity plays a very important part. Arthritis, syphilis, tuberculosis, inebriety, insanity and neurosis are common antecedents. The heredity however is more often by transformation from other neuropsychic diseases. Thus hysteria, epilepsy and idiocy, may follow in successive generations."

Among school children the presence of cruelty even when not resulting in actual violent acts may point to epilepsy as a cause. The observation of this trait in children if followed will often lead to the discovery of unsuspected attacks, occurring perhaps only during sleep or in the form of some equivalent.

This is a matter of extreme importance because of its relation to the prevention of more serious consequences, both mental and physical. We have frequently observed abnormal character traits among school children in connection with ordinary medical inspection of schools, which have led to the discovery of unsuspected presence of epilepsy.

Probably the most common offenses of epileptics are the following: Atrocious murders with unnecessary violence; gross sex offenses including indecent exposures, rape, and various forms of perversions, arson, bigamy, and certain less serious crimes, occurring in confusional states.

As an example of an epileptic equivalent with a certain amount of automatism, the following case, among many others we have recently observed, is significant. A young man of twenty-five, a successful mechanic by trade, rented an automobile with driver, drove about San Francisco, visiting various cafes without any definite purpose, and finally went out into the suburbs of the city. There, he suddenly attacked the chauffeur, striking him on the head with a lead pipe wrapped in paper. After rendering him unconscious, he robbed him, then placed him back in the

car and returned to the city, where he deposited him in front of his home and left him. He then proceeded to the owner's garage, left the car, and went to his own home and to bed. The following day he was arrested while curiously gazing at the car in the place where he had left it.

There was in this case no motive for robbery, as this young man was well supplied with money and was not in debt. Upon being arrested the next day, he had little recollection of what had occurred and could in no way account for his act. An examination showed no evidence of feeble-mindedness, but, on the contrary, the possession of excellent intelligence; there was no sign of insanity, sex perversion, or alcoholism. The most probable explanation lay in epilepsy. An extended investigation into this man's history gave evidence of much peculiarity of temperament, but no history of convulsions *except in early childhood*. The family history showed alcoholism and neurotic traits in several members of the family. This was, therefore, probably a case of psychic epilepsy culminating in an act which might easily have resulted in murder and the infliction of capital punishment, which must often have happened in other similar cases.

Here is another important case which we have recently examined for medico-legal purposes. A man of twenty-seven, who had been engaged in a successful produce business, sold out, stored some of his goods in a barn and moved onto a ranch. He soon married for a second time and continued to work his ranch successfully. Soon after disposing of his produce business, he insured the barn and contents where his goods were stored. After several months, this place was burned down, under suspicious circumstances, and the man arrested on complaint of the insurance company. An investigation gave evidence that this man had probably committed arson, and he was accordingly tried by jury and promptly convicted. Before sentence he was examined by one of us, who easily discovered a typical case of epilepsy in a man who had suffered from this disorder since early puberty. At the time

of the examination he was having from one to three violent convulsions each day in the county jail.

This man possessed reasonable intelligence, but gave evidence of considerable mental deterioration. His reputation was excellent in the community where he had always lived, and he had succeeded well in business and was in no need of the few hundred dollars he had collected on his insurance. His young wife testified that the convulsions had of late been steadily growing worse and that he often had mental lapses or dream states, which, however, she did not understand, although she described them perfectly.

There was evidence that he had been seen on the night of the fire carrying about his shoes in his hands on the streets of the town and acting in a "queer, absent-minded manner."

This man, in spite of a good personal and business reputation given him by business men, the police and others, was duly sentenced to two years in the penitentiary, despite the testimony of experts that he was no doubt suffering from epileptic automatism at the time of his criminal act. Something over a year later his case came up before the Parole Board and the disordered mental state would even then have received no attention except for the accidental presence of an expert who happened to be present as a visitor. Parole was not granted however, and the man served his term, a helpless victim to his disorder and doomed to rapid physical and mental deterioration.

Such a story as this is common in every great prison and indicates the lack of scientific knowledge of most of those who deal with criminals in courts or penal institutions, and reflects discredit upon our present social organization, which in the main provides very inadequate facilities for criminal investigation.

As an example of juvenile epilepsy in relation to repeated delinquency and unrecognized by anyone the following case is interesting and instructive.

A boy of fourteen years is brought into court for repeated stealing, threatening to shoot a neighbor and rather general in-



corrigibility. This boy was in the first year of high school but in the opinion of his mother, was not succeeding very well, and was working under very considerable stress. There was a history of petty stealing from a very early age, and later of stealing from his mother and neighbors, and finally, of burglary. His delinquencies seem to have occurred at rather definite periods, between which he had been normal in his conduct.

His history shows that as a young child he had violent attacks of crying for which punishment had absolutely no effect. In fact his mother stated that he never appeared to feel corporal punishment at all. He had been a sleep-walker and difficult to arouse, and sometimes screamed. He had never lost consciousness nor had any spasms. He was intelligent, but nervous, excitable, and peculiar. Between his very nervous times and his delinquencies there seems to have been a definite relation.

This case might have been difficult to diagnose were it not for the evidence furnished by family history. Summarized, this history is as follows: Mother a most intelligent, cultured woman of thirty-two, who married out of her social sphere and was promptly disowned; father a respectable barber earning small wages. Mother hysterical in the adolescent period, with periods of mental confusion. Maternal grandmother of boy seems to have had epileptic convulsions during puberty. Her sister (maternal great aunt) was insane for fourteen years but afterward recovered. The maternal great grand-uncle of the boy was one of the *highest officials of the United States*, but his brother was an epileptic who deteriorated very greatly in intelligence, and in turn had a feeble-minded son. There is an indefinite history of an infant epileptic son in the family of the high government official. There is also a history of great superiority in this same family, one son being a college president and others exceptionally distinguished citizens. The boy has two paternal uncles who are alcoholic, but his own father is normal although of rather low social status.

This boy in light of his family and individual history is clearly an epileptic or at least suffers from an epileptic equivalent. There is also the possibility of a developing *dementia praecox*.

Only a careful examination would have brought these remarkable facts to notice and have explained what otherwise would to the court, have been inexplicable. Without such information any procedure taken by the court would be likely to fail; with it such a case may be properly placed and considerable accomplished in the way of cure or control of both the disease and the delinquency.

*A Case of Epilepsy and Feeble-Mindedness in a Young Woman Murderess.*

In the summer of 1922 there occurred in Los Angeles one of the most brutal murders known in police records in this country. Scientific investigation has demonstrated that this crime was one of the very greatest significance from the standpoint of the modern study of behavior and responsibility.

Very briefly the facts are as follows: The body of a young widow, a bank clerk, was found lying by the side of a road in a rather isolated place just outside of the city, bearing evidence of a most atrocious assault. The injuries inflicted were of such a brutal nature that they cannot be described in print. Within twelve hours a young married woman of about twenty years of age told the police that she had witnessed this murder which had been done with a hammer, and that it had been perpetrated by a friend of hers, a former chorus girl associate, during an altercation in respect to the relations between the victim and the husband of her friend. The husband also soon informed the police that his wife had done this murder and that he had sent her away on a train bound for a certain city in Texas. The defendant was intercepted at Tucson, Arizona, and brought back to Los Angeles for trial. She at first childishly denied her identity, but later admitted it. She also denied all knowledge of the crime. During the trial which followed, the following important points were brought out: the crime itself was revoltingly brutal; entirely unnecessary violence had been employed; the injuries inflicted were of such a nature as to at once suggest a disordered mind to any experienced alienist; well-founded jealousy was the motive. The public demanded

prompt vengeance and cried aloud for a verdict of **murder** with the death penalty. The district attorney demanded the death penalty.

An investigation of this case brought the following information to light: The defendant was a very attractive young woman of twenty-three years of age; she was slight in build and refined in physical appearance and general attitude; she possessed a general appearance of intelligence and was the very last person anyone would ever have suspected of a crime or even of possessing a bad temper. On the contrary, the defendant's entire attitude was that of gentleness, timidity, and physical weakness. Her history in brief revealed some astounding facts. Her father had been a man afflicted with the most violent outbreaks of temper, during which he had often been guilty of brutal assaults on animals and his own children; on one occasion he had smashed up the entire furniture of his home in an attack of rage; he had for many years been regarded by his neighbors as unbalanced, some considering him as insane, others as feeble-minded, and others as "peculiar, not normal, abnormal", and like expressions. His memory of these outbreaks was known to be defective or entirely lacking ("absent"). Between attacks his reputation was that of a rather inferior but very kind man. The mother of the defendant had a history of attacks of frequent convulsions covering a period of more than twenty-five years, and her mentality had always been distinctly inferior. One brother of the defendant aged thirty years and married was known to be feeble-minded, a low grade Moron, and probably epileptic, as he was also a victim of attacks of destructive rage. The defendant herself had been afflicted with convulsions and occasional attacks of very violent temper during which she had sometimes done injury to her relatives, destroyed furniture, smashed dishes, driven her mother out of the house, and similar violent acts, none of which acts had she subsequently been able to remember and for which she had always experienced penitence and regret. At thirteen years of age she was in the fourth grade in school when she was married to a normal young man of twenty.



Later there was a divorce and then a re-marriage. Three married sisters are apparently reasonably normal women and all have lived successful lives. All of these young women, while attractive and able to conduct themselves satisfactorily, are, however, somewhat below good average adult intelligence.

The alienists for the defense in this case testified that in their belief the defendant was a victim of epilepsy; that she was in addition a woman of feeble intelligence, possessing a mind of a child of "less than ten years"; that her general information was negligible; that she could not cook, nor sew, but could dance in cheap theatres, and run an automobile; that she could read only simple things, that her vocabulary was very small and childish in ordinary speech, in her testimony on the witness stand and in an actual psychological test; in fact being that of a child of less than ten years; that there was every reason to believe that the murder was the result of an emotional experience preying upon the mind of a defective epileptic; that the final act was probably unpremeditated and followed a word quarrel which led to a violent fight and culminated in an epileptic seizure of a psychic character (preceded by certain "aura") during which she performed many brutal acts, both before and after the death of the victim; that afterward she may and probably did experience partial or complete loss of memory of what had occurred after the violence had once begun, and until the following morning, when she at least regained knowledge of her own personality.

This case has been related in some detail because of its *extreme importance* from a medico-legal point of view. As a matter of fact, all four of the defense alienists, including the two writers of this book, were publicly discredited for offering such testimony; were attacked by the public press and were disbelieved by many of their own friends, all of which indicates in our opinion that in matters of justice in criminal cases the public has made little progress beyond that of the days of witchcraft or the mediaeval inquisitions.<sup>2</sup> That such an un-

<sup>2</sup>The prosecuting attorney designated the findings of the defense alienists as "scientific idiocy," a fair example of the undignified and often ignorant methods of attack employed in criminal trials.



balanced individual as this one requires permanent custodial care, no one can possibly deny; that the death penalty should be visited upon such an epileptic feeble-minded girl some may doubt. It is a matter of rather curious significance that the sympathies of the public and the press are invariably with the prosecution and the alienists employed by it, and against the entire defense side. The trials of such cases are in fact in most instances largely opportunities for the exhibition of legal brilliancy of argument, rather than for honest attempts to discover facts and to apply a suitable remedy in the way of a "judicial prescription". Such cases also indicate the necessity, as pointed out in another chapter, for the abolishment of expert medical testimony as now employed by both prosecution and defense, and the establishment of an impartial board or commission of experts which should render a scientific report entirely uninfluenced by any interest in the legal factors of the case, and given only after prolonged observation of the defendant under suitable clinical conditions. Finally, in cases of a verdict of "not guilty because of insanity", such defendants should be placed in institutions for the criminal insane, which should be established in every state for cases of this character.

### *Conclusions.*

Epilepsy is one of the most terrible of all mental afflictions. While it is true that many cases are mild and may often, under modern treatment, be kept under almost perfect control, yet potentially at least there are always grave dangers. No other mental disorder shows such a variety of manifestations, and no other is likely to result in such serious criminal complications. All very unusual and particularly all extraordinary brutal cases should be carefully investigated for the possible presence of this malady, a point which in our courts seems to be rarely recognized or given any consideration.



## PART TWO

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### THE DRUG ADDICT

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#### CHAPTER XII.

##### THE DRUG ADDICT AND THE CONTROL OF NARCOTICS.

About ten years ago the use of narcotics became the subject of popular agitation in the United States. There were good reasons for this agitation. The responsibility for a series of spectacular crimes occurring in the south was attributed to narcotic addiction. And criminal acts in varying degrees of atrocity occurring everywhere throughout the country, and with apparently increasing frequency, were laid at the door of drug habitues. Thus public attention was focused upon the evils of the abuse of narcotics, and the inadequacy of our legal measures for controlling the situation. As a result, the Harrison Narcotic Law was enacted by the Federal government on December 17, 1914.

This law was not a hastily conceived statute rushed through as an emergency measure. On the contrary, it was the result of the mature deliberation of persons intimately familiar with the narcotic situation. It was formulated with the knowledge and assistance of medical men, and of medical associations, thus bearing the stamp of approval of the very persons who, next to the narcotic users themselves, were most vitally affected by its provisions. For this law placed restrictions upon members of the medical profession and, in effect, dictated the manner of practicing the profession of medicine to an extent scarcely approached by any legislation in recent years.

The law not only transgressed ancient customs heretofore held sacred to the judgment of physicians alone, but made it necessary for every physician to engage in irksome details and exacting clerical work quite foreign to the usual medical régime. All this with the approval and co-operation of the members of the medical profession who appreciated the importance of, and the difficulties involved in stemming the rapidly rising tide of drug addiction.

Nor was it alone those most directly affected who approved the new statute. Popular approval was almost universal. And, as would be expected in the case of any law having such a background and such a backing, this statute became actively operative from the day of its enactment. Never for one moment has its enforcement been neglected. On the contrary, a veritable army of specially appointed officials,—Federal, State, County and City officials, have devoted their energies to the law's rigid enforcement.

From time to time the various courts have interpreted certain points in the law. And almost without exception these rulings have tended to tighten the net about the narcotic law breakers. There has been no trend toward leniency. So that, at the present time, practically every prescription written by a physician for a narcotic comes under the careful scrutiny of a competent inspector; practically every grain of narcotic dispensed by every pharmacy in the land must be accounted for to Federal and State inspectors; and a majority of the habitual narcotic users are known to the authorities to the extent of knowing approximately the amount of drug they are taking and the length of time they have been taking it.

Nor is this narcotic knowledge a mere formality. Prosecutions of offenders who have broken the Harrison Narcotic Law, or are suspected of having done so, fill the calendars of the Federal courts. And other courts are equally well patronized.

In short, the Harrison Narcotic Law has now been a popular measure for several years, and has been as actively enforced as is humanly possible.

What is the result of these years of almost unprecedented legislative activity?



The question cannot be answered in a sentence. But it seems to be the consensus of opinion of Federal, State, and County officials, who are most closely in touch with the situation, that the number of drug takers and the amount of drug consumed today, after several years of this active legislation, is just as great as, if not, indeed, considerably greater than it was before the law was enacted.

There is, however, a radical change in the method of obtaining opiates by the drug addicts. The closure of the legitimate channels for obtaining narcotics has brought into existence an illicit traffic of tremendous proportions. The elusive underworld peddler," well supplied with drugs now exacts his pounds of flesh from his helpless victims, and tempts guileless "prospects" with free samples for the sake of future profits. Thus, without vitally affecting the actual evil, we have added criminality to what was formerly simply immorality.

With this situation existing after nine years of active legislation it behooves us to take inventory of our weapons and fighting equipment against the narcotic evil. Why has the Harrison Narcotic Act failed to accomplish the purpose for which it is formulated? Certainly this failure cannot be laid at the door of inactivity on the part of officials, or lack of interest and co-operation by the public. Wherefore, it appears that there must be something fundamentally wrong with the inception of the law itself. A law that fails to effect its purpose when vigorously enforced, and after a sufficient length of time to give it fair trial, must be lacking in something not visualized in its original conception. There seems to be no other logical conclusion.

From a medical viewpoint the law has the fundamental defect of not giving sufficient consideration to the underlying cause of drug addiction. In effect, it regards narcotic addiction as a purely criminal act willfully indulged in by normal individuals, with only scant consideration to the possibility that disease may be the cause as well as a result of the condition. Stated in another way, the law emphasizes the legal aspect of the problem and subordinates the medical features.

Now, in point of fact, the vast majority of opiate addicts present an abnormal mental and physical condition closely akin in many respects to the condition known as insanity. And our present narcotic legislation presents many features similar to the older legislation for the control of mental diseases.

It is not medical men alone, however, who believe that narcotic addiction is often the result of an abnormal mental state, not merely a "bad habit." The veteran officers of the law eventually reach this conclusion, almost without exception. In the beginning, when their duties first bring the officers in contact with this class of persons, they usually regard the drug addict as a self-willed and responsible criminal offender. Their opinion is based on the popular conception of addiction, not upon practical experience. But later, after they have been closely in touch with every phase of drug habituation, their viewpoint changes almost invariably. Their original conception was based on ignorance; their later point of view is the result of experience. And no one will question that experience is a better teacher than ignorance.

A precisely similar change in mental attitude occurs in persons who are brought closely in contact with the insane. The novice in insane hospital work invariably thinks that a high percentage of his patients are not insane—that "there is nothing wrong with them." But as he gains in experience his viewpoint changes, just as in the case of the officers who are brought closely in contact with narcotic addiction. And thus we find the experienced narcotic officer inclined to deal leniently with the non-criminal type of drug addicts, because he realizes that he is dealing with persons who are not wholly responsible for their shortcomings.

It is apparent, therefore, that the comparison between insanity and drug addiction is not overdrawn. And in this connection we should remember that it is only within the lapse of a century that insanity has been legally recognized as a disease. Christian nations, for a period of more than fifteen centuries, had regarded insanity as a "possession by demons"—a crime. The unfortunate insane were imprisoned and subjected to every kind of cruelty, just as in the case of the vilest criminal. Yet persons continued

to become insane, and usually incurably insane, in the face of the most hideous punishments.

America, the great haven of liberty, offered no sanctuary. Lunatics were beaten, imprisoned, chained in filthy dungeons and specially maltreated here, just as in monarchy-ridden Europe. And as a culminating touch of persecution our ancestors burned at the stake that pitiful little group of old madwomen at Salem.

But even this did not stop people from "going crazy." And at last even the law itself stood aghast at its futile folly.

Then a great French physician, Pinel, proclaimed the heresy that madness is a disease, not a crime. And with the courage of his convictions, and fortunately, with an influence that could not be disregarded, he struck the shackles from the inmates chained in their mad-house hovels. And behold! many of these mad creatures regained normal reason! The era of rational treatment of insanity had dawned. Lunacy had evolved from a state of incurable criminality to the condition of a curable disease.

There is an analogy between our present attitude toward opiate addiction and the lunacy situation of one hundred years ago. Insanity was not thoroughly understood then, and, naturally, the lunacy laws of that time were inadequate and unjust.

The opiate addict, like the psychopath is usually an abnormal individual. But in most instances his physical and mental abnormalities are not apparent to casual observation so long as his system is supplied with the sustaining quantity of the drug.<sup>1</sup> When this necessary stabilizing narcotic is withdrawn, however, the abnormal physical and mental conditions quickly assert themselves with absolute certainty. Yet even when the similarity between insanity and opiate addiction is recognized, our attitude toward the two conditions is utterly different and is determined by the supposed underlying cause of each condition, rather than by the conditions themselves. We punish the opiate addict because his infirmity is self-imposed, just as formerly lunatics were punished because it was believed that they willfully associated themselves with evil spirits.

<sup>1</sup> In fact he often is first a psychopath and second an addict.

But the present legal attitude is not consistent even if we accept the dictum that the result of self-imposed vices should be punished, while unavoidable misfortunes should not. For it so happens that one of the most important and prevalent forms of insanity, general paresis, is the result of venereal vice—a self-imposed condition. At least ten per cent of all cases of insanity are attributable to this vicious cause. Yet the law makes no distinction between paretic patients, with their virtually self-imposed disease, and any other types of insane persons. The paretic is not punished, although in acquiring the specific infection which is the cause of his condition, he gratified a willful indulgence scarcely more compelling, and generally regarded as far more reprehensible, than the craving for a drug.

It is evident, therefore, that the cause of insanity does not influence the legal attitude toward this disease. Such is not the case with opiate addiction. A drug addict is a malefactor in the eyes of the law whether he acquired his habit through pure viciousness, or whether, as is often the case, his addiction was thrust upon him unwillingly as in the case of many maimed veterans from France.

It is true that there is a somewhat vaguely phrased distinction in the legal attitude toward persons who are criminally insane and other demented individuals. All insanity is a disease, but in some States special hospitals are provided for the care of persons suffering from "criminal insanity." But even so, a very great distinction is made between this type of insanity and ordinary criminality. No such distinction is made in the case of drug addicts. Yet we know that there are addicts whose drug taking makes them criminals; and others who regard criminal tendencies and criminal acts with just as great abhorrence as the highest type of normal individual. It is just as inconsistent to put these persons in the same class as it would be to place ordinary criminals and insane criminals on the same level.

The important thing about the existing narcotic laws, however, regardless of inconsistencies, is the fact that they do not appear to be getting adequate results.



One modification of the present law that naturally suggests itself is to increase still further the scope and stringency of the statute. But it would seem that this is scarcely possible without curtailing the legitimate use of opium. And opium, bear in mind, is our most useful and most important drug. Curtailing its legitimate use would cause untold suffering among countless numbers of innocent persons afflicted with painful diseases. These persons far outnumber the addicts. So that even the complete elimination of this relatively small handful of drug habitues would be scant recompense for such a sacrifice.

A less objectionable plan would be some slight modification in the existing narcotic laws tending to emphasize the medical side of the narcotic problem. There is nothing novel in this suggestion. Indeed, a practical step in this direction was taken in certain cities recently. For example, the Narcotic Clinics, conducted in the cities of Los Angeles and San Diego for a brief period in 1920, were based on this principle and produced results that were encouraging to say the least.

The Los Angeles clinic was started as a department of the Board of Health, with the approval and assistance of the municipal authorities, for the purpose of giving preliminary medical treatment to the narcotic addicts. This clinic endeavored to supply persons who required the constant use of an opiate with the necessary amount of their narcotic in gradually decreasing doses at a nominal price. It was conducted by physicians detailed by the Health Commissioner, and under the immediate direction of a Narcotic Board composed of prominent physicians, public spirited citizens, and Federal, State, and Municipal officers who volunteered their time and services.

It was not the purpose of this clinic merely to supply the opiate addicts of the community with narcotics. On the contrary, the clinic was established for the purpose of medical treatment, with gradual withdrawal of the drug, and final cure when possible. Complete cure by this method would not be possible in most cases, of course; but it was possible to reduce the amount of drug used, and improve the patients' physical condition so

that they could be treated successfully in some suitable institution at the proper time.

The things actually accomplished by this clinic attained, in a measurable degree, the object for which it was created. During the five months of its activity, more than five hundred drug addicts applied for treatment. It was a motley company representing every walk and condition of life. Every degree of financial status was represented, every shade of dishonesty, as well as every grade of integrity. Some came from purely criminal motives, others with the exalted purpose of being cured of their habit. Still others, in the hope that they could escape the clutches of the illicit peddler and his extortionate prices.

A record of the obstacles that had to be overcome in putting this experimental clinic into practical running order, the mistakes that were made, the trickery and deceptions that were practiced, as well as the honest endeavors of the deserving addicts and persons suffering from painful bodily afflictions, would make a volume of intensely interesting and variegated narrative. But the important things accomplished may be summarized in a few paragraphs. For one thing, illicit peddling was reduced to a minimum. When a patient could get morphine honestly for ten cents a grain, why be dishonest at ten times that price with a good chance of landing in jail into the bargain? The peddlers complained, almost openly, that they were "being ruined" by the clinic.

To the class of persons suffering from painful afflictions, such as tuberculosis and cancer, whose condition made the continued use of an opiate an absolute necessity, the clinic was a veritable Godsend. For it enabled them to procure their necessary drug at a reasonable price and in a legitimate manner. Thus they were able to reduce the amount of the narcotic, since, curiously enough, the uncertainty of being able to get a supply of the drug always tends to make the addict use more of it.

The clinic made it possible for several individuals to engage in honest occupations for the first time in many months. Heretofore the uncertainty of the source of supply, and the ruinous

prices demanded by the peddler, had kept these patients in such a state of physical dilapidation that they were unable to work. Thus the clinic enabled many of these victims to again become honest bread winners. Several of them were now able to provide for their families and again live in a respectable and self-respecting manner. And meanwhile their general health was improved by the gradually reduced doses dispensed at the clinic, and the release from the harassing anxiety about obtaining their drug.

It is a fact well known to persons familiar with the subject, but not appreciated by the generality of people, that almost every drug addict wishes to be freed from his bondage. In many instances the desire is an inadequate and feeble one, of course, while in others it is insistent and compelling. The members of the clinic exemplified this in an amazing degree, all things considered. Within two months after opening the clinic, twenty-four individuals had made earnest application to be placed in some institution for the final treatment and cure of their addiction. And it is most illuminative that after the clinic was closed no less than twenty-six persons were given this curative treatment in private institutions from the accumulated funds; and fully as many more had filed applications for taking similar treatment and were bitterly disappointed when they found that no more funds were available.

This alone, the fact that half a hundred persons out of a total of five hundred were sufficiently earnest in their desire to be cured, that they were willing to surrender themselves for radical treatment, is convincing evidence of the usefulness of this experimental clinic.

Moreover, the clinic enabled the officers to determine pretty accurately the number of drug addicts in the community, particularly the class of drug takers likely to become a public menace. And the surprisingly small number of these individuals seems to refute the popular idea that drug addiction is running riot in our communities.

The fact that so many of these clinic patients were anxious to take a final curative treatment in some proper institution, and

that such a relatively large number of them actually did so, is an indication of what might be accomplished with a clinic having hospital facilities at its disposal. Such an arrangement is of course the one now in vogue for treating almost all physical ailments; and even mental diseases are now so cared for in certain favored communities.

A similar arrangement, modified to meet the various conditions, would put the legal and medical authorities closely in touch with the addicted patients and with the narcotic situation in a manner similar to our arrangements for controlling other serious diseases, such as tuberculosis. This factor alone, it seems to us, justifies the re-establishment of clinics along similar lines to the experimental ones tried with such a measure of success in Los Angeles and San Diego. Undoubtedly great modifications would be necessary. But great modifications are always necessary in any progressive experimental work.

In addition, some special hospital provisions should be made, just as in the case of insanity. And there should be some governing body of specially qualified medical examiners to determine the requirements of each case, similar to the medical commissions that determine the status and dictate the treatment in insanity cases.

Unlike the existing laws governing insanity, however, the final decision about any case should not be left to the judgment of juries composed of laymen. For the average layman knows less about opiate addiction than he does about the psychoses. And one can scarcely expect intelligent assistance and co-operation from any body of men who know practically nothing about the subject they are called upon to decide.<sup>2</sup>

Perhaps the best practical solution of the whole narcotic problem would be to place it unreservedly in the hands of the United States Public Health Service. This would bring it under control of intelligent physicians who also have legal authority to enforce any clinical or custodial measures that seem necessary.

<sup>2</sup> It is a usual matter for Superior Court Judges to be assigned to Lunacy Courts or Criminal Courts or even Juvenile Courts, who know nothing except the *law* in respect to the cases they handle.



In any event, the narcotic addict is with us, and like the poor, and the bad, and the unfortunate, he is likely to remain with us. Only the visionary idealist, or persons ignorant of human nature and of human history, can believe otherwise. No great compelling human vice or disease has ever been completely stamped out. And the best that we can hope to do by our most concerted efforts, for the present at least, is to reduce narcotic addiction to a state of reasonable control.

### SUMMARY

Drug addiction is mainly a disease, a disease in the nervous constitution of the victim. It is therefore even more difficult of control than infectious diseases for example, because it is more subtle, less objective. It is almost wholly a *medical problem*; only slightly a *legal* one.



## PART THREE

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### STUDY OF CAUSES AND TREATMENT OF DELIN- QUENTS AND CRIMINALS

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#### CHAPTER XIII.

##### THE DELINQUENT CHILD.

Before Juvenile Courts were first established in 1899, and rather generally adopted in 1904, little or no progress had been made in the conception of the underlying causes of delinquency of any sort in either juveniles or adults. Since this period the modern theories and principles of crime and delinquency in general have gradually developed along with other biological and sociological conceptions, until today there is no longer any excuse for blind, slipshod, superficial methods of dealing with the delinquent classes.

During the rapid evolution of the Juvenile Court, it has passed through a number of distinct periods or phases, not all of which have led to logical scientific development. At first the court was exploited both by the press and by means of popular lectures, as a sort of easy cure all for the moral ills of children. During this period many newspaper and magazine articles, as well as books, were written in interesting, dramatic style on the problems of the delinquent child. In a way, the young offender had suddenly become a young hero. The subject was a picturesque one, affording all sorts of opportunities for sentimental and dramatic effects. Boys' gangs became as interesting to the public as the train robber bands of an earlier date; books on wayward children were written, which presented all the picturesque emotional side of the subject by authors who utterly failed to understand the deeper and more

fundamental causes at work. Men and women whose work afforded them excellent opportunities for observation failed, in the main, to note anything deeper than the most obviously evident effects of unfortunate environment upon the lives of children whose acts brought them into court. The natural result of this sentimental exploitation was the development of a voluntary corps of probation officers too often attracted to the work by the dramatic glamour of the situation and usually composed of untrained, unscientific individuals, with excellent principles directed to no particular purpose. Like other kinds of voluntary public service, this, with a few notable exceptions, soon proved ineffectual and inefficient.

The third stage, as Dr. Thomas D. Eliot in his "Juvenile Court and the Community" has said has been a natural reaction from the discovery, as the novelty of the court wore off, that the world had not been reformed after all. Paid staffs began to appear and the courts were visited less often by "social uplifters," and sensational experiences of boys' gangs began to attract less attention. Like the alleged adult hero criminal of earlier fame, it was becoming rather plainly evident that young hero delinquents also do not exist.

Following the wave of superficial, sentimental popular reform, with its inevitable slump of interest, came a period of adverse criticism, followed by one of analytical study and constructive work.

Today only those courts which have survived these crude early periods of development and gone on to the final one of scientific constructive work, are worthy of much respect, for they alone are helping to discover and correct the fundamental causes of delinquency.

The modern study of delinquency has made it plain that many factors are at work in its causation and that until all of these receive due consideration, no permanent progress can be made.<sup>1</sup> The first scientific study of the problem in this country

<sup>1</sup> At first attention was largely fixed in feeble-mindedness as the basis of delinquency. Now we know that character defects are mainly responsible for asocial behavior, and such defects involve many factors in the individual's make-up. Dr. Henry Goddard regards congenital syphilis as a most important factor. In Los Angeles Wassermann tests give 7 per cent; in Honolulu, 34 per cent.



began in 1907, when Dr. William Healy was placed in charge of a Psychopathic Laboratory in connection with the Juvenile Court of Chicago. Chicago owes the place it now holds in the modern study of crime to the beneficence of Mrs. W. F. Dummer, who, for a number of years, maintained this laboratory with Dr. Healy and his assistants in charge of it. Later on the county was wise enough to recognize the value of this work and place it upon a permanent public basis.

Early professional workers with young offenders fixed attention upon physical defects of various kinds as the direct cause of delinquency, and everything from eye-strain to adenoids was heralded as the primary cause. Today we know that a great number of factors are usually at work and that only by the combined efforts of social workers, probation officers, physician and psychologist, can these be determined. The judge, while primarily present to dispense the law after all ascertainable facts have been presented to him, must himself be a judicial sociologist to administer properly the duties of his office. The old idea of a paternalistic judge, supported by untrained sentimentalists on the one hand, or the stern, socially uninformed judicial tyrant, upheld by ignorant police officers on the other hand, is at last giving place in progressive cities to a social organization in which every member is by nature and training fitted for his place. Such desirable organizations are, however, very uncommon, and the average Juvenile Court is still little more than a kindly disposed legal grist mill.

#### *Problems to Be Investigated.*

Every case of any importance which presents itself at the Juvenile Court should be investigated in respect to at least the following points:

1. Direct cause of the complaint.
2. Social status of the home.
3. Economic status of the home.
4. Family heredity.
5. Physical condition of child.
6. Developmental history of the child.

7. School history.
8. Employment history.
9. General interests.
10. General conduct.
11. Mental state of the child.
12. Training of the child.
13. Child's own view of the case.

Of these thirteen points, six will fall to the investigation of probation officers or special investigators and seven to the physician and psychologist. Without a knowledge of the child's physical and mental state little can ordinarily be accomplished, yet it is precisely in these respects that most courts fail in their procedure. Not only must physical and mental examinations be made, but they must be conducted by experts, for in no field of science is accurate knowledge and experience more necessary. Contrary to common opinion the physical, and particularly the mental, condition of the child are usually far from obvious and are often of the subtlest character, requiring in their determination the most skillful kind of diagnosis. This is no field for the beginner in medicine or psychology or for the generally, but not specifically, trained professional worker. A diploma in medicine in itself confers no right on its holder to engage in this kind of highly specialized work, nor does training in psychology alone necessarily bequeath an understanding of juvenile mentality.

In regard to physical conditions, the writers are confident that their importance in relation to delinquency, while not negligible, has in most instances been greatly exaggerated. It is, of course, of the utmost importance to discover the actual presence of tuberculosis or of tendencies leading to it; the various states of malnutrition which lower resistance; ordinary contagious diseases; syphilis, because of its highly important relations to various physical and mental disorders; bad conditions of dental hygiene; conditions of physical immaturity, or of over-development, particularly in connection with defects of the ductless glands; conditions requiring surgical attention, such as adenoids and diseased tonsils, and certain other physical abnormalities; but in the

main these are of far less importance in relation to delinquency than the presence of abnormal mental states.

Our own experience with juvenile delinquents leads us to the conclusion that the proportion of diseases and physical defects is usually no larger or more serious among this class than among the general population of school children in the same community. This is contrary to conclusions of some other investigators, who claim to find a very much larger proportion of physically defective children among the delinquents. When we come to mental states, however, the proportion of defects at once becomes conspicuous, greatly exceeding the proportion found in any average school population. In other words, the relation of mental defects or other mental abnormalities to delinquency is much closer than are physical defects and diseases. For this reason, if for no other, every case of any importance passing through the Juvenile Court should receive a very careful mental examination, including not only tests for intelligence, but such other tests as are likely to prove valuable in establishing the child's character and mental status. The school record is here always important, as is also knowledge of the child's general information and ordinary reasoning power. Family history and heredity give much valuable help toward reaching a conclusion. Many cases which appear normal enough to parents, teachers, probation officers, family physicians and judges, often prove definitely abnormal when studied by the expert.

In Los Angeles Juvenile Court the proportion of feeble-minded children is not far from thirty-three per cent year after year, while the number of those wholly normal in mental constitution seldom varies much from twenty-five per cent.<sup>2</sup> Supernormal ability is rarely observed among the juvenile delinquent classes anywhere. That the mental conditions found in the courts and schools for delinquents in this country are not worse than those found in other countries, and in many respects far better, is indicated by many studies in many different places. A recent investigation carried out by one of us in Honolulu brought to

<sup>2</sup> In nine hundred twenty-two cases, 14 per cent. of boys and 34 per cent. of girls were feeble-minded (1920-21).

light the following interesting facts: Of one hundred twenty-four cases examined at the Boys' Industrial School, sixty-four were four or more years retarded in mental development; only ten were of normal mental age or within a year of their actual age. The remainder were from one to four or more years retarded in mental growth. Just what proportion of these should be called definitely feeble-minded is a rather difficult matter to determine, but from a purely practical point of view, one must conclude that at least twenty are permanent institutional cases. The practical solution would seem at present to include those as feeble-minded who are four or more years retarded in mental development or to use an intelligent quotient of 65 and whose school retardation and practical life performance correspond in general with their mental measurement.<sup>3</sup> It would appear to us that feeble-mindedness alone, based on psychometric methods for its determination, is not sufficient cause for institutional segregation except in greatly retarded cases, but that many of this class may be floated successfully in a simple environment after proper training in some trade or agricultural pursuit.

Of one hundred delinquent cases studied in the Honolulu Juvenile Court, only one case was above normal in mental capacity; six were fairly normal; six were dull-normal; twenty were dull; twelve border-line; and fifty-five were feeble-minded. Sixty-seven per cent were, accordingly, subnormal to some extent; forty-nine per cent of the boys were feeble-minded, and sixty-seven per cent of the girls. Seventy-nine per cent of the cases in which accurate information was obtainable were retarded from one to five years in school.<sup>4</sup>

An examination of one hundred thirty-three girls in the Honolulu Girls' Industrial School, whose actual ages ranged from twelve to twenty, with a median age approximating fifteen years,

<sup>3</sup> Many of course regard the intelligent quotient of less than 70 as the best standard on which to base an opinion in respect to feeble-mindedness. (See Ch. V.) In this particular group the actual ages were from ten to sixteen years.

<sup>4</sup> Median intelligence quotient of boys, 70; of girls, 60.



demonstrated that eighty cases had a mental age of less than eleven years, while only three were at age or within a year of actual age. It is true that these delinquents in Hawaii represent a large number of different races and racial mixtures; but, on the other hand, all were born in the Islands and have attended schools patterned almost exactly after those of the Mainland. All spoke English with a reasonable degree of fluency. Language difficulty cannot, therefore, be held responsible for the very low mental ages discovered by means of various intelligence test methods.

Wherever delinquent children are observed, about the same problems present themselves, and chief among these is the discovery of certain social and physico-psychological factors which underlie abnormal, anti-social behavior. These are exactly the factors which have, in the main, been unrecognized or disregarded in most instances by those dealing with the juvenile delinquent.

If we can discover the chief reasons for delinquency, the prevention, cure, or control of it ought then, to be at least as practical a matter as the prevention, cure, and control of disease has been since the time when we fairly rid ourselves of superstition and began to apply science to the study of it. This, we must remember, is an accomplishment of only the last few decades. The modern study of child psychology makes it perfectly clear, among other things, that the morals of children are of gradual development. Morality is not something which is innate or suddenly acquired, but until rather recently it was everywhere held that even quite young children had about the same sense of right and wrong as adults possess, and on this utterly absurd basis they were held nearly as responsible for their delinquent acts as adults.

Only one hundred years ago children in England were sometimes hanged for theft and twenty-five years ago there were no children's courts anywhere. Until children's courts were established, children suffered, as Dr. Mangold says, from the old theory of crime, which was that a certain crime or delinquency was punishable with a definite penalty without much regard to

who committed it or under what circumstances. To make the punishment fit the crime, not the person, was about as far as legal procedure interested itself, and to a large extent this is still true in most of our conservative and rather antiquated "Courts of Justice."

Education, medicine, and the church have undergone wonderful changes during the last twenty-five years. The spirit of tolerance and human helpfulness has greatly extended the usefulness of each. But law, with its characteristic adherence to much that is useless in precedent, has granted a scant hearing to modern social progress. Twenty years ago there was no science of child study, nobody knew much about how children's minds or bodies developed. The child, both in mind and body, was supposed to be a miniature grown-up. Now all this is changed and we are beginning to understand that the child's mind does not work at all like an adult's, and that as far as his body is concerned, his organs have periods of accelerated growth, periods of reduced resistance, periods of increased resistance, and other definite periods different in character from anything we find in the adult.

The child is unstable in both mind and body. He is an unfinished product, although we have always treated him as if he were a little man in mind, body and soul. Now we know better, or ought to know better, and this knowledge should help us to understand not only the normal child, but also the one who is not quite normal or who may be definitely abnormal. Most of us seem to forget that we ever were children, and child life, with its hopes, enthusiasms, fears, temptations, disappointments and failures, is lost in a strange haze of stupid, grown-up forgetfulness. Only a few persons are able to see both the child's world and their own, although most of us think we can. Perhaps it is not so much that we have actually forgotten and do not see, as it is that we have lost the feeling of child life, and this is even worse.

Children who go wrong are not always normal and some who are normal are often subjected to very abnormal surroundings at a time in life when they are prepared neither mentally nor physically to meet the new conditions which they are forced to

face. They go wrong in very different ways and for very different reasons, yet we are inclined to treat them as if there were but one reason and that one common perversity. The real reasons for delinquency are many, but under them are found such widely different factors as bad training, bad environment, ill treatment, undeveloped control, tainted heredity, natural curiosity, sometimes permanently arrested mental development, mental complexes, and juvenile insanity. Actual viciousness, perversity or innate badness in children is rather seldom if ever observed.

Personality needs study. What a child is and does, his efficiency and powers of adjustment depends upon at least three groups of factors: intelligence, instincts and emotions. Behavior depends upon action and inaction of instincts, feelings, and intelligence as these are influenced by life experiences. "The personality represents the sum of the facilities for adaptation."

Most children mean well and are not the unregenerate sinners that some stupid grown people would have us believe. In fact, more children are spoiled by wrong treatment on the part of their elders than would ever be spoiled if left pretty much to nature. The sins of fathers and mothers, and teachers as well, are truly visited upon children. We have every sort of training now-a-days except training for parenthood and child study. The average child does remarkably well when one considers the kind of training he gets from the average untrained parent and teacher.

Here, for example, is an account of a misunderstood and badly treated boy whose parents, in matters other than child training, were intelligent above the average. When we first examined this boy, he had been brought into the Juvenile Court for repeated stealing. He was fourteen years old, but in many ways appeared about two years younger than this. Speaking in scientific terms, he was physiologically immature. He was an attractive, courteous boy, but had recently become rather sullen, secretive and suspicious. He was well up in his school work, liked to read good books and never gave his parents any trouble until about two years previously. His first stealing was from

a church contribution box. Later he stole from his mother's pocketbook and afterwards he and some other boys broke into a store and took a small sum of money, as well as certain games and toys which they thought they required. He had stolen on several other occasions, but had never taken anything of very great value or anything for which he had no personal use.

Now, in first thought, this case would, to many people, appear as a serious one, indicating perhaps a tendency toward a criminal career. Many judges would commit such a boy to reform school on the very first hearing. But, as a matter of fact, is the case such a serious one? Do the facts indicate that we are dealing with a bad boy, who cannot be reformed outside of a public institution? And, finally does this sort of case require the stern hand of the law and a severe punishment to set the individual upon the straight and narrow path of rectitude? The only way to obtain the right answers to these questions which, contrary to general public opinion, are not self-evident, is to make a careful investigation of the particular case in hand. General principles, moral or otherwise, do not much apply here. A talk with the boy's father brought out these significant facts: the mother had been delicate, highly nervous and irritable and had often been grossly unjust to the boy. She had shown marked favoritism for a younger child. It is significant that her own father died in an insane asylum and that his disposition had always been most unstable.

The boys' father had had good intentions, but had been stern and unrelenting and often too severe in his discipline, a point about which the parents had frequently disagreed in the presence of their son. The mother had rarely given the boy any money to spend, and on such rare occasions had doled it out in pennies. He had been allowed little or no time to play and when not in school had either been selling newspapers on the streets or helping his mother with housework, the latter task being particularly distasteful to him. He had been nagged and scolded and never given much encouragement.

The reform school is not the remedy for this case of what we call delinquency, but what is needed is a good home, sym-



pathetic understanding of boy nature, just and generous treatment. And this is what was finally obtained for him by making the situation clear to his well-intentioned but misguided parents. Today he is a perfectly normal boy and the whole family atmosphere has been transformed. Many juvenile court cases come to an end with the reform of parents.

Children between twelve and sixteen years of age pass through a wonderfully plastic and impressionable period when their characters are easily formed for good or evil. Bad association, ill treatment, injustice, misunderstanding, a constant exhibition of temperamental uncontrol or worse on the part of parents account for much juvenile waywardness. Children become a part of all they see and hear and not only their own daily acts, but the acts of their parents, determine what they are today and what they will be tomorrow.

Juvenile insanity as a cause of delinquency while relatively uncommon, is not rare. Here, for example, is the case of a boy who was first brought into court when seventeen years old on the charge of general incorrigibility, but, specifically, for placing loaded cartridges on the streetcar tracks. He had left school at the age of fifteen, when he was in the ninth grade. At the time of his arrest he appeared sullen and in many ways peculiar, but was released on suspended sentence and no medical examination made at this time. A year later the boy was again apprehended, this time for assault upon his father. The Probation Officer reported as follows: "This boy was arrested for assaulting his father in a fit of uncontrollable anger, striking him on the head and inflicting serious wounds. He is peculiar and generally uncontrollable."

The boy had no trade and was quite unable to secure regular employment. At the time of his arrest, he was armed with a kitchen knife, with which he threatened anyone that came near him.

A physical examination showed a poorly nourished boy, who had recently lost ten pounds in weight; his mental attitude was markedly peculiar, at times being dull and lethargic and at others quick, irritable and suspicious. Mental tests showed him

very irregular in responses, but not actually defective in intelligence. There was, moreover, some indication of mental deterioration. Further examination brought out information in respect to despondency, suspiciousness, peculiar food habits, periods of fasting, quarreling, setting the table for dinner at nine in the morning, cooking supper in the middle of the afternoon, hearing noises about the house indicating to him the presence of burglars, and various other mental irregularities. His conversation was incoherent, confused, and excitable. With a record such as this, it was thought advisable to send him to the Psychopathic Hospital for observation, where it was soon determined that this was a typical case of juvenile insanity or dementia praecox. Without a careful study of this case, it might easily have passed as one of plain delinquency, ending in a voluntary criminal act for which the penalty might have been a long term in an institution. Many similar cases terminate in just this manner. The diagnosis of insanity clears the case and makes it possible to apply rational treatment with some hope of partial or even complete success.

In another instance a Spanish boy of seventeen years was referred for examination by the Juvenile Probation Department because of suspected heart disease. This boy had been guilty of many misdemeanors at various times; he had never succeeded in school, never having passed beyond the fourth grade. There was a history of having fallen unconscious many times during a period of several years, the difficulty being attributed by his family to heart trouble. An investigation revealed the fact that the boy's father and three brothers were similarly affected, which was, of course, a highly significant matter to the examining physician. This boy was of an attractive personal appearance, conversed well, and made an excellent general impression. No one had ever suspected any mental trouble or that he was in any way personally irresponsible in his behavior.

An examination of this case brought out the following facts: Far from suffering from heart disease, his heart was perfectly normal, although it was true that he had some lung complications; he had never been able to hold a position long and had never done any work of importance; he could pick fruit or drive

a team, but could never be relied upon in matters requiring much judgment. For this state of affairs he had always been held responsible by his family and employers. During the course of the examination it soon became apparent that his attacks of unconsciousness were caused by epilepsy, and it was also perfectly clear that he came from an epileptic family, in which the disease was hereditary in character. Not only so, but a mental test made it apparent that this boy's intelligence was only that of a seven-year old child. With the body and instincts of a young adult, he had only the intelligence and judgment of a child.

This boy can never succeed unguided in the world. For example: within two weeks after his last examination, he broke his parole and again appeared in court for a very serious delinquency. The kindest treatment for this boy would be permanent confinement under wholesome conditions, where it would be impossible for him to yield to temptation or to procreate his kind. Defectives of this sort nearly always pass on their defects to a large number of either legitimate or illegitimate children, for there is practically no restraint now placed on such unfortunate but socially dangerous individuals. No eugenic measure is more important than the segregation, sterilization and general control of boys like this one.

Sometimes delinquents go wrong because of a strangely weak "moral sense," while their general intelligence is as good or better than, that of the average individual of the same age. Such a moral weakness constitutes what is sometimes, but rather improperly, called a "moral imbecile."

Some of our worst types of criminals and delinquents are of this class. Yet, removed from temptation and placed under proper, wholesome restraint, these individuals may usually be made happy, helpful and efficient members of a colony where full individual freedom is not permitted. Where judgment is lacking, somebody must supply it, for the individual cannot be trusted to exercise that which he does not possess. It may well be that future studies in the matter of mental complexes will do much to explain the type of reaction found in cases of this character. So far as we can determine at present, however, the defect appears to be fundamental and permanent.



Girls who drift into the Juvenile Courts represent, in the main, a different problem from that of the boys. Delinquent girls are usually sex offenders, although this offense against morals is by no means always chargeable to the deliberate misdoing of the girl herself. Moral offenses of this nature have many angles and should always and invariably be studied by sympathetic but well-informed women investigators. The case of Inez Fernando illustrates pretty well a well-known type of Juvenile Court girl.

Inez, who at the time of the investigation, was nineteen, had a court record extending over five years. Beginning with charges of incorrigibility at home at fourteen years of age, she had passed in and out of the court more than a dozen times. Inez had been guilty of incorrigibility, truancy, immorality, and other offenses. She had run away from many homes where she had been placed by the court; she had been an inmate of the detention home; had been in the county jail twice, and in the psychopathic hospital once. Altogether she had cost the county not less than two or three thousand dollars. She had been arrested for "joy riding" countless times; for keeping company with men and accepting presents of money, clothes, furs and jewelry, not less than six times. Her whole career for more than five years had been one of almost constant delinquency.

To cap the climax, she had recently sued a rich and prominent young man for a large sum for "heart balm" and had been publicly heralded as a young, beautiful, and innocent girl wronged by a faithless and dissipated scion of the wealthy.

Not until Inez had cost the county much money and not until after a period covering five years of entirely wasted effort, was her special problem even approximately understood. Then when all the harm had been done, a carefully conducted mental examination for the first time revealed the fact that this beautiful girl, one who would to casual observation pass anywhere as normal in mind and body, actually possessed the mind, not of a young adult, but of a child of eleven years. Inez, with adult instincts, had only the judgment and self-control of a child, and even at that, of a quality and character entirely different from a normal eleven-year-old child. This girl is a Moron or high-grade feeble-minded person. She represents in her make-up the



type which probably comprises more than seventy-five per cent of the professional prostitute class. In other words, gross immorality in girls is of itself very often a symptom of feeble intelligence, for proper behavior is, in the last analysis, based upon good judgment, and repeated improper behavior on weak judgment. No one should condemn Inez who knows the facts, for she is permanently irresponsible for her acts; but everyone should condemn a public (which means all of us) which permits such cases to go unstudied for years on the theory that such a girl can choose between right and wrong if she only cares to exercise that choice.

Inez had failed in every opportunity which had been given to her. She had been offered a business education and had many good homes, but all without avail. Like thousands of others of her class, she will continue to sow the wind and reap the whirlwind, until society assumes some responsibility for its weak and helpless members.

Inez can be placed in a "School of Reform" (note the irony of the phrase), until she is twenty-one years old. After that she is free to exercise all the privileges of a normal person, all of which she will inevitably abuse.

Another type of case is represented by Mary, a colored girl of sixteen years. She has two illegitimate children. Her parents are dead. Her mother was a deaf mute; her father unknown. She has no means of support.

Mary, who has always passed in the world as a slow but normal enough girl in many respects, tells us that ninety-seven cents and three cents make ninety-nine cents; that pork is meat but that she doesn't know where they get it; that she can't name any book or magazine; that she doesn't know how many eggs are in two dozen; that she never heard of Chicago; that she doesn't know the name of the president, or how much a laboring man can earn, or the name of any river; that four times two equals six. Yet this girl has spent six years in a city school, has earned \$15.00 a month in housework and can sew and cook and pass along unrecognized as feeble-minded! Mary passes just seven years on the Binet Intelligence Scale. What may be expected of her children and her children's children? The unchecked taint which flows in Mary's blood and has flowed in countless an-

cestors, will pass on through generation after generation, adding its quota to the prisons, hospitals, brothels, and poor farms of the future. Shall we check the stream now at its head or try to dam the torrent later? Shall we sit idly in wonder and astonishment or arouse ourselves to action?

There is another type of wayward child much less understood than any of those already described. This is the child who, without defect of intelligence and with no form of ordinary mental unbalance, yet conducts himself badly. Sometimes such children lie to an extreme degree, they often steal, many are truants, others persistently run away from home, while not a few do all of these things. In spite of careful study these cases prove usually baffling to parents, teachers, doctors, and social workers. Recently the cause of many, if not most, of these cases of abnormal behavior has been explained.<sup>5</sup>

Dr. William Healy has perhaps given us more light on this puzzling subject than anyone else. In his book "Mental Conflicts and Misconduct" he shows conclusively that many of these children referred to are suffering from mental conflicts which establish what is known as repressions in their minds. Often these are caused by unfortunate childish experiences which may have been partly or entirely forgotten but which nevertheless are subconsciously present but suppressed. Some outlet must be had for the repressed experience and this outlet is not infrequently found in various forms of misbehavior. This misconduct may be no better understood or no more desired by the perpetrator of it than it is by the parent or teacher or other person who desires to correct it.

To quote Dr. Healy in regard to this seeming contradiction:

"We find that some misdoers do not, in their misconduct, appear to be in the least carrying out their keenest desires. Their actions are forced, as it were, by something in themselves, not of themselves. \* \* \* 'I don't know what makes me do it,' 'I don't want to do it' are words often heard from these boys and girls. It would seem that students of human motives should

<sup>5</sup> This type is in our opinion different from the so-called "moral-imbecile."

long since have been attracted to this curious phenomena of conduct."

The cure for this state of mind lies in uncovering its source, and then re-educating the child (or even sometimes the adult) who has gradually become a victim to his own abnormal states of mental reaction. The methods employed are known as psycho-analytic and to some degree are adapted from the epoch-making but unfortunately exaggerated theories of Freud, the German Psychologist. What is most effectively used is not the complicated methods of Freud, or even Jung, but rather simple mental analysis which makes use of some of the Freudian psychology.

By this method "the memory is aided to penetrate into the forgotten portions of one's life, with the view of bringing to the light of clear consciousness the details of emotional conflicts which, in spite of being out of sight, exert an influence, often of an unfavorable sort, on the development of character and temperament, as well as on the motives, the habits, and the thoughts."

Dr. Healy more simply states that mental analysis is a name given to the method of using the memory to penetrate into the former experiences of mental life.

A mental conflict occurs when mental elements are out of harmony with each other. From this state there results a complex or a system of mental elements or ideas built around an emotional center. Parts of a complex only appear in consciousness and result in certain forms of misbehavior; other parts are lost in the less-conscious mind. Repression may occur almost unconsciously or it may result as a deliberate effort to get rid of an unpleasant experience or thought.

Just how a repressed idea finds outlet in a nervous disorder or in conduct (which is undoubtedly the fact,) is not easy to explain. Perhaps it is enough to say that the misbehavior, for example, is something in the form of a substitution for the repressed idea. It is a sort of reaction to an unbearable situation in a form less unpleasant to the individual than the original repressed idea. Much of this conflict and repression rests on a basis of early sex experience of various kinds; some of it has

its origin in other emotional shocks. Sometimes the beginning is found in repressed but little understood childish jealousy or a rebellious attitude toward real or imaginary injustice.

That a new and very important field for investigation of misconduct has been uncovered there can be no doubt, and in proper hands we now have the means for explaining what until very recently was often inexplicable. The pity of it all is that countless children and even adults have had to bear the stigma of disgrace for conduct for which they were largely or entirely blameless and which they themselves were as much at a loss to explain as their friends and accusers. No worker in juvenile delinquency can afford to neglect this promising field of study, for no type of waywardness yields more readily to treatment than that which is based on discoverable mental conflicts.

But enough has been said to indicate that when boys or girls go wrong there are perfectly definite reasons, if we only search intelligently for them. Some can be saved by means of simple changes in their lives; some undisciplined cases require stern measures where through faulty training, respect for the rights of others has never been acquired; some are feeble-minded; some are morally but not intellectually deficient so far as we are at present able to determine. Some are victims of mental complexes.

Boys and girls for the most part go wrong for definite ascertainable reasons such as misdirection, lack of sympathy, failure of others to develop in them reasonable ideals of life, irritating or exhausting physical defects, mental complexes which only a psychologist can unravel feeble intelligence, juvenile insanity, epilepsy, neurotic make-up, and for some other less common causes. Both heredity and environment act in all cases, and it is usually difficult to know which is more responsible. What we need is not so much juvenile courts for trying and punishing children but psychopathic laboratories for the study of abnormal minds; social investigation to determine the facts of heredity and environment and courts of "domestic relations" for trying, educating and, if need be, punishing parents. More parents should be trained in court and more children at home. The prevention of delinquency is far more important than its cure. A bad hu-



man stock of psychic inferiors must be gradually weeded out, but plenty of good stock is spoiled in the raising. What we need to know is how to tell the hopeless from the hopeful, for it is of no possible use to spend time, energy and money in trying to change the leopard's spots or the Ethiopian's skin. In the meanwhile, most juvenile and criminal courts as well, grind out their daily grist with no real knowledge of how to separate the wheat from the chaff and this absurd practice will continue until expert advisers, blessed with common sense, sort over this human harvest of criminals and delinquents.

### *The Prevention of Delinquency.*

In the development of the Juvenile Court almost no thought seems to have been given to the idea of scientific prevention. In this respect Law is comparable with Medicine, with this difference, that whereas medicine has now for twenty years made preventive measures uppermost in importance, law still lags behind apparently satisfied with time-honored, unscientific traditional methods of procedure.

The prevention of delinquency is just as practical as the prevention of disease, and the means for its accomplishment are not so very different. Once medicine discovered the causes of disease and abandoned the mere treatment of symptoms, a scientific school of medicine was born. Such a school of law has not yet made its appearance, and there are few hopeful indications in this direction. In preventive measures the court must closely co-operate with the school, for the public school furnishes the greatest sorting ground of young human material to be found anywhere in the world, and it is here, more than anywhere else, that attention must be directed to the discovery of potentially delinquent boys and girls. At present the school and the court are widely separated, and it is only in rather rare instances that any methodical attempt is made to bring about adequate co-operation between the two.

To discover the pre-delinquent child the schools must avail themselves of expert helpers capable of making exact characteriological classifications. The potentially delinquent may be found

in every school system, but at present almost no attempt is made at any sort of real character study. If schools would maintain departments of Clinical Psychology, not only the discovery of the potentially delinquent would be entirely possible, but other scientific mental classifications of children would result in discoveries which would largely revolutionize both court and school procedures.

Today the feeble-minded are mostly unrecognized as such in our schools and are accordingly dragged, pulled, pushed and coerced along the stony educational pathway with inevitable failure as the end result. On the other hand super-normal children, equally unrecognized, may be found in almost every school grade, who, with a little special help, could be easily advanced from one to three grades with consequent inestimable saving in time and efficiency, but who, from lack of interest and stimulus suited to their ability, often make a poor showing and not infrequently become juvenile offenders from sheer lack of wholesome interests.<sup>6</sup>

The Research Clinic will discover the child with potential qualities of insanity, who, once recognized and treated early along proper educational lines, may often be saved from a future serious mental collapse. Such a clinic will discover the dull child who is not feeble-minded, but who requires special educational help if he is to succeed in life, but who without it often drifts into inefficiency or delinquency, or both. It will discover vocational aptitudes and furnish the proper basis for scientific vocational guidance, and thus keep many children in school who now leave at the first opportunity wholly unprepared to meet life. It will devise means for measuring the rate of learning of children and for discovering why children fail in part or altogether in their various tasks.

In short, the clinic will largely prevent the accumulation of the ever-present educational scrap-heap found in every school in the land, and do much toward preventing a not inconsiderable part of this heap from being dumped upon our courts; for it is a plainly observable fact that our delinquent cases in court

<sup>6</sup> See *Intelligence of School Children*: Terman.

trace their origin almost exclusively to conditions at present unmet in our schools.

The dull child becomes truant or quits school just as soon as he can escape, largely because of discouragement, the child of feeble intelligence gets almost nothing from his school experience, and emerges into life utterly unqualified to meet any of its exacting requirements.

Both of these classes of children might be trained within their own capacities; but they never succeed with methods adapted to average normal children.

Particularly in connection with the issuing of work certificates such a clinic will discover why boys and girls desire, or are forced to go to work at an early age, and will suggest means for meeting a deplorable situation; for, as everyone ought to know, these are in the main the very children who are unfitted to meet the complex requirements of modern life and to whom anti-social opportunities soon appeal.<sup>7</sup>

The court and the school are, after all, a very intimate part of our great social system, but are not ordinarily recognized as such. Both are in the main dissociated from real life and rather blind alike to many of the fundamental causes of their serious problems and to their wonderful opportunities for social betterment.

The time has arrived for the establishment in every large school community of the "Opportunity School," a school to which may be sent every child who does not meet average school conditions. Here will be found in one division a place of refuge for the pre-tuberculous or otherwise physically handicapped child; in another, a place for the feeble-minded; in another for the accidentally retarded; in another for the pre-delinquent in need of special moral training and discipline; in another for the part time working child and the child of limited capacity, such as our Mexican class who must fill the ranks of the common laborer, and so on for various other types for whom the regular-schools are ill-adapted. Is the cost excessive? Yes, but not a hundredth part as excessive as our own wasteful procedure of traditional neglect of child needs. With such a plan of scientific classifica-

<sup>7</sup> Many defective boys leave school to go into the "Messenger Service" for easy jobs.

tion and proper placement of children, our courts would soon find themselves all but out of business, for most of the very material from which delinquents are recruited would no longer exist, the ranks of delinquency being, in the main, recruited from the physical and mental misfits in the schools. Most of the wards of society might be made self-sustaining by methods which are now well understood. At present most of the wards of society are directly furnished by society itself through its utter failure to grasp the main causes of social inefficiency and to put into operation scientific means which are now readily available.

### *General Conclusions.*

This consideration of the juvenile delinquent shows that many factors are at work producing delinquency.<sup>8</sup> It shows further that without a careful, scientific consideration of all factors obtainable, no intelligent treatment can be applied. It shows particularly that feeble-mindedness, neuroses, epilepsy (often in a masked form), psychopathic personality, juvenile insanity, and various mental complexes are frequently present even when not suspected, and that these factors often render the individual personally irresponsible to a large degree. It shows that moral obliquity is often present in individuals whose physical and intellectual states are apparently normal and raises the question of more or less permanent irresponsibility in such instances. It shows the fallacy of treating all cases as if the same degree of responsibility were present, and the same principles of discipline were applicable. It indicates the necessity for further public provision for certain institutional cases and particularly for epilepsy and feeble-mindedness. It points to the necessity for the early recognition of conditions of mental defectives and various misfits in the public school before delinquency actually occurs. It makes it clear that much of the retardation present in public schools is due to unrecognized mental defects. Finally, it shows that the problem of juvenile delinquency can not be entirely solved in the Juvenile Court, but that its main causes go back

<sup>8</sup> Dr. H. W. Potter has outlined an excellent plan for the study of the personality of the child in "Mental Hygiene", July, 1922.



into the home, the community, and the social organization. It would especially call attention to the fact that degeneracy and delinquency are closely related and that practical eugenics has here one of its most vital problems. It would, finally, emphasize the necessity for a socially organized court, in which every officer possesses a definite social training and viewpoint.<sup>9</sup>

<sup>9</sup> Such a training as this the Judge of the Court almost never has. As Chief Justice Harry Olson of Chicago says, a Judge in this country is rarely trained in sociology, biology, anthropology, or even in general science. Yet it is in just these fields that Judges of Lunacy, Juvenile and Criminal Courts must make their decisions. A newly elected Juvenile Court Judge recently expressed to us his doubt as to the value of *mental examinations*. His outlook was an exclusively *legal* one!

## CHAPTER XIV.

### THE SOCIALIZATION OF JUVENILE COURT PROCEDURE.<sup>1</sup>

The usefulness of any human institution depends upon the degree to which it is socialized. The Juvenile Court movement represents to a remarkable extent the way in which such an ancient legal institution as court procedure may be animated by the spirit of humanism. Courts, for thousands of years, have been rendering decisions, but until the Juvenile Court with its clinics, its staff of experts, doctors, psychologists, psychiatrists and social workers was established no one ever traced the actual result of a court decision in terms of human values. What becomes of the lives of individuals upon whom the courts pass judgment? What sum-total of end-results have we accumulated? Nobody knows. But the Juvenile Court is conceived in the spirit of the clinic; it is a kind of laboratory of human behavior.

How this result is achieved by a procedure that is socialized this chapter will try to explain. For illustration of the statutory law on which the Juvenile Court is based, California will be chosen as an example.

The Juvenile Court of California, first established by legislative enactment in 1903, now operates under statutes amended in 1915 substantially, as follows: A judge of the Superior Court is chosen by his fellow judges to sit as a Juvenile Court judge. Jurisdiction extends to persons under twenty-one years of age. (Under certain conditions persons charged with felony between the ages of eighteen and twenty-one are dealt with by the criminal courts.) The law formulates no definition of delinquency or dependency, but enumerates fourteen specific conditions under which a child may be brought before the court. These conditions embrace the range of offenses, behavior-difficulties, phy-

<sup>1</sup> Written by Dr. Miriam Van Waters.

sical, mental and social handicaps which cause or tend to cause a child to need the protection and guardianship of the state. The Juvenile Court has jurisdiction over adults criminally liable for contributing to certain of the above conditions.

Proceedings are begun by petition filed with the clerk of the Superior Court by any interested person who on information and belief alleges that a child comes within the provisions of the law. The attendance of the child and its parents is secured by citation; a warrant may be issued if citation seems likely to be ineffectual. Attendance of witnesses is secured by subpoena.

The law states, No. 5, "In no case shall an order adjudging a person to be a ward of the Juvenile Court be deemed to be a conviction of crime." Any order made by the court may be changed, modified, or set aside, as to the judge may seem meet and proper. Provision for an appeal from judgment is made. The keynote to the act is found in § 24, entitled "Construction": "This act shall be liberally construed, to the end that its purpose may be carried out, to-wit, that the care, custody and discipline of a ward of the Juvenile Court, as defined in this act, shall approximate as nearly as may be that which should be given by his parents."

California, in counties of the first class, that is to say, Los Angeles, joins New Mexico as the only state that specifically provides by law for the appointment of a woman referee to hear cases of girls and young boys brought before the court. The referee has the usual power of referees in chancery cases, hears the testimony of witnesses and certifies to the judge of the Juvenile Court findings upon the case, together with recommendation as to the judgment or order to be made.

Such, in brief, is the legal background of the Juvenile Court in Los Angeles. Since the enactment of 1915 all cases of girls under twenty-one, and boys under thirteen, have been privately heard in the detention home by a woman referee. Socialization of procedure has been the rule, and if the number of cases appealed is a test, the plan has been successful, for during the four years when Orfa Jean Shontz, the first woman referee to be appointed, heard these cases, over six thousand matters were before

the court, and not one appeal was taken from her findings and recommendations.

The qualifications of the woman who is to serve as referee of the Juvenile Court have not been defined by law. In chancery practice it is presumed that the master, or referee, is chosen because of some special skill, thus cases where estates are involved are sometimes referred to accountants, referee in bankruptcy proceedings are very general. Anciently the Anglo-Saxon usage was to appoint learned men, bishops, physicians, or lawyers, and that this custom was displeasing to some is indicated as early as 1377, when a petition was addressed by the House of Commons to the King, pleading that the "defacement of the law" by "masterships and other singularities" be done away with, but we find King Henry V addressing one of his masters in chancery, thus, "that ye make suche an ende in this matiere that we be no more vexed hereafter with thaire complaints and God have you in his keeping". The referee is the "arm of the court". In the training of a woman referee of the Juvenile Court sound legal knowledge is essential, particularly of the law of evidence and principles of the laws relating to the protection of minors and women and all that pertains to domestic relations. A thorough knowledge of psychology, mental hygiene, sociology and anthropology, at least those branches of anthropology that deal with criminology, cultural history of the race and of racial traits and capacities, is much to be desired. The referee should have had training in social work, in the elements of the case-method and in the practical field of probation. She should have imagination, a sense of humor and a genuine love of youth.

Socialization, what do we mean by this term as applied to Juvenile Court procedure? I take it to mean the process by which the purpose and goal of the Juvenile Court is best attained, that method which best frees the spirit of the Juvenile Court and permits it to serve the social ideal it was created to express.

Briefly then we must call to mind its origin. The Juvenile Court sprang into being in the decade following the Illinois legislation of 1898 in response to the demand of a civic conscience



freshly awake to the horror of treating children as criminals. In theory this court is parental, a court of guardianship, not a criminal, or quasi-criminal court, but a court where the paramount issue is the welfare of the child. Rooted in the ancient Anglo-Saxon concept of the King as the "ultimate guardian of his subjects, who by reason of helplessness could not help themselves", the Juvenile Court is the modern outgrowth of the power of *parens patriae*, partial or parental power of the state, administered through the English courts of chancery, as students of the Juvenile court movement, notably Judge Edward Waite of Minnesota, have so ably pointed out.

That simple folk looked to the courts of equity for remedy against the rigors of the common law is expressed as early as 1321. Aubyn de Clyton complaining of a gross and outrageous trespass petitions the court of equity on the ground that "the said Johan and Phillip hold their heads so high and are so threatening that the said Aubyn does not dare contest with them at common law. Desire for socialization in this ancient chronicle here mingles with a touching confidence in its attainability.

While the legal basis of the Juvenile Court is rooted in equity two fundamental, modern ideas concerning the child, one biological, the other social, have united in the formation of the Juvenile Court.

Biology teaches us that the child is a being quite different from the adult. His way of feeling and his response are governed by natural laws that pertain to youth; his behavior is an adjustment to life, ruled by cause and effect. *The whole being of the child is sacred to growth.* And throughout the period of growth, during the whole course of his immaturity, he is held to be plastic, capable of infinite modification. Unless this modern concept of the child is mastered we cannot understand the principle of the Juvenile Court.

The second fundamental idea is that of the child as an asset to the state. The child is an asset, greater than all his faults. It is the duty of the state in the interests of its own self-preservation to take care of the child when parents have failed him. The Juvenile Court law formulated by the legislature of Illinois in

1898 was an expression of these principles, and the machinery created to express and to enforce these principles harked back to the ancient usage of Anglo-Saxon jurisprudence. It is well to stress this point for the benefit of certain critics who think, or appear to think, the Juvenile Court a kind of modern, benevolent mushroom, foisted on the body of the law by social uplifters.

In our discussion of rights in the Juvenile Court the main right to be considered is the right of the child, his primary right to shelter, protection and proper guardianship. The first requirement of socialization is a method for getting the whole truth about the child.

Analogy here brings the court close to the spirit of the clinic. The physician searches for every detail that bears on the condition of the patient. The physician demands all the facts because he believes it is only good that can follow to his patient. The patient is privileged to expect a *good*, but only on condition that he reveal all the facts and submit himself utterly. He is freed from fear because the aim of the examination is his own welfare.

Quite contrary is the spirit of legal action. The defendant is hemmed about with elaborate safeguards against improper questions. The right of a witness not to incriminate himself, his right to the secrecy of certain inviolate privileged relations and communications, all the rules of evidence that exclude certain kinds of truth from the ear of the court, as irrelevant, incompetent and immaterial have grown up with a view to protect the individual from the power of the state to inflict penalty upon him. Fear of injustice, dread of punishment; these are the human emotions expressed vividly in the dry phrasing of the rules of evidence, just as in the folk saying:

"Only the rich can afford justice; only the poor cannot escape it."

The Juvenile court, on the other hand, can demand the whole truth because it has the power to save, to protect, and to remedy. Its orders, or judgments, are not penal, but parental. Its object in determining truth is not *incrimination*, but the gaining of that

understanding which must precede constructive discipline or treatment. In a trial at law the early history of the defendant is immaterial from a legal point of view. The fact that in childhood he suffered from night terrors, that at nine years of age he had convulsions, that an early sex experience has distorted his view of reality, that his sisters are prostitutes and his father an alcoholic epileptic may not have the slightest relevancy in court procedure. His wife may be incompetent to testify that he confided to her the secret strains and repressions that have warped his behavior. In short, the truthful picture of the man as an individual may be ruled out of consideration. In a socialized juvenile procedure no useful evidence should be excluded from the court. Each relevant fact should be admissible, but we should adhere closely to that body of the rules of evidence which applies the test to truth. Hearsay, incompetent evidence, opinion, gossip, bias, prejudice, trends of hostile neighborhood feeling,—all these sources of error should be ruled out of the Juvenile Court as rigidly as from any other court. If socialization of court procedure means letting down the bars so that social workers can dispense with good case-work, or can substitute their fears and prejudices for the presentation of real evidence, Heaven forbid any increase in socialization! No, the test of truth in the Juvenile court should be definite, scientific, carefully scrutinized.

The second principle in socialization is co-operation. In order to secure the welfare of a human being it is necessary that he assent. Compulsory uplift, like compulsory education, is difficult, if not socially, impossible. To the clinic the patient comes because he feels sick; in the court, the young person comes because he must. It is the business of the social worker to make him feel sick beforehand; that is to say, the social seriousness of the situation should be established. The child should be made to feel penitent, but charging him with guilt is not the best way to accomplish this result. Such a course in the nature of an attack places him on the defensive; it is a challenge and his mind leaps to the encounter.

How change of emphasis from a procedure designed to incriminate and to convince, to a procedure socialized and aiming at welfare,—how this change of emphasis leads to change in the



attitude of the child is seen nowhere more clearly than in the treatment of young girl sex-offenders. Los Angeles is the honey pot of movie-dreaming youth. One girl of eighteen was recently before the court on a police complaint of soliciting. She lived in Detroit and had lodged in half a dozen jails en route. Arraigned in police court of Los Angeles, she was transferred to the Juvenile Court. She was plainly bored there. Well she knew she could not be convicted of anything more serious than vagrancy. This quiet room, this woman sitting as judge, these women who sat as clerk, reporter and bailiff,—why, it was all child's play.

"Why are you here?" she was asked.

"Well, they can't *prove* anything on me. No one ever saw me take a cent, and I had my clothes on."

"You are not accused of anything here, save that you are a person under the age of twenty-one with no parental control, and in danger of leading an immoral life, and should the court find it necessary for your protection, you can be held until you are twenty-one."

It was a bewildered young person. Gone were the old words to lean on: "bail", "guilty or not guilty", "fine", "thirty days", etc.; gone the smiling policeman, the friendly detectives. She was just a girl, stranded; a prodigal daughter, not a defendant. Yet this court impressed her with the power it had to compel obedience. She told her story. She submitted to discipline. What prosecution could not do, co-operation secured in half an hour.

So, too, in matters pertaining to the custody of children. Parents accustomed to regard the child as private property are perplexed at a view which places the welfare of the child first. A girl of eleven had been neglected at home. Parents, two sets of step-parents, flanked by the in-laws, flung mutual charges ranging from blasphemy to incest. "This is not a domestic arena," they were told, "only one issue is here today: what can you suggest for the welfare of this child?" When it was made clear to them that the child herself had the paramount right, that parental selfishness must give way, their attitude changed gradually and instead of demanding a property right, they agreed that none of them were fit to have her.



A third principle in socialization is the dynamic principle of modification behind the juvenile court. In legal action the sentence, or judgment, is final. The game is lost or won; the finality of Domesday is not more irrevocable. But the Juvenile Court's decisions are like youth itself, capable of being modified, meeting each tomorrow afresh, adjusting perpetually to life. The courts have held unfitness temporary. What does that mean? It means eternal chance for the erring parent; it may mean the opportunity for reconstructed family, or individual life.

Jennie, a girl of twenty-three, formerly a ward of the Juvenile Court, was married to a soldier and mother to a three-year-old boy. The husband had sought unsuccessfully in the divorce court and in the criminal court to deprive her of the custody of the child on the ground of her unfitness. Nothing could be *proved* against this mother, and yet one look at the child, thin, with pale sad eyes, supported the belief that he needed care. The matter came into the Juvenile Court. Jennie resisted any attempt to incriminate her, and her success as a client on the defensive had become proverbial. "Your child \* \* \* has he a chance?" not the question, had she been guilty of misconduct, but "Your little boy,—is he all right?" Brushing aside her attorney, "No, no, I have neglected him!" Then followed her statement of her unfitness, with a plea for a chance to prove fitness. Six months afterwards she had won back her baby whom she had given up voluntarily for his welfare. She had co-operated in a plan of constructive rehabilitation.

A fatal blow to socialization, however, is the attempt to use evidence secured in the Juvenile Court as the basis of other legal action. Jennie's husband, after her rehabilitation tried to use her statements made in the Juvenile Court as evidence against her in the divorce court. He was unsuccessful. Twenty-six states have safe-guarding provisions against using evidence gained in the Juvenile Court against the child in other proceedings.

But this protection should be extended to parents who in good faith, for the purposes of child welfare, give evidence against themselves in the Juvenile Court.

A driving force in socialization is the use of the social opinion of the group one belongs to, and has most respect for; from a sociological point of view this is one of the benefits of a jury trial, the submission of one's self to judgment of one's peers. How this social force can be obtained in children's cases is a problem. Recently an experiment was tried in the Juvenile Court of Los Angeles where the girl officers of a school, known as El Retiro, maintained by the county for wards of the court, a self-government group, were asked to sit with the referee in the cases of two girls who had run away. The proceeding was entirely informal, but the benefits secured to the runaway girls and to the morals of the school have been of untold significance. Far reaching, indeed, is the effect of placing responsibility on youth, and in permitting them insofar as their young shoulders are able to carry the burden of the waywardness of their fellows.

Is the concept of socialization antagonistic to legal principles? What is law? In a discussion of this matter reviewed in the Reports of the American Bar Association, 1902, Vol. 25, page 445, the definition of Blackstone and Austin of the law as a *command*, or body of commands, proceeding from the supreme power of a state is criticized: "The law is something more than the mere formal rules which have been declared in constitutions and statutes and applied in precedents . . . The real social force is made up of the principles of social organism; the expressed laws are but rules of operation." Lord Coke, certainly no sympathizer of looseness, said, "The principles of natural rights are perfect and immutable, but the condition of human law is ever changing, and there is nothing in it which can stand forever. Human laws are born, live and die." One of Wendell Phillips' epigrams was this: "Ideas strangle statutes."

From an anthropological view, that is to say, from a human point of view the law is a culture-product of the human race. Its majesty is derived only from the human spirit, and it is subject to change and growth just as any other organism. This highly complex, apparently adamant structure is indeed changing, and if we read aright the spirit of the times it is changing

quite in the spirit of the modern family; it is following the lead of its youngest offspring, the Juvenile court movement.

To sum up: Socialization of Juvenile Court procedure depends on the clear, firm grasp of the principles of equity. The court is one of guardianship, not a penal court. Nothing that the child says can incriminate him in this court, because the object of the court is his welfare. Socialization involves getting at the whole truth; nothing that is true and relevant should be excluded. Socialization involves co-operation, constructive discipline, and the dynamic concept, as expressed in the principle that an order in this court may be modified as life conditions are modified.

The chief obstacles to socialization of Juvenile Court procedure are lingering shreds of penal terminology and criminal law usage. Obsolete thinking and unclear thinking are obstacles. Socialization implies that judges and court officials are to be experts, experts in scientific training and in the art of human relations.

## CHAPTER XV.

### THE PSYCHOPATHIC LABORATORY.

#### *The Psychopathic Laboratory for the Medico-Psychological Study of Criminals and Delinquents.*

As Dr. William Healy has said: "The most fundamental need of courts which deal specifically with human problems, is knowledge of the qualities of the human beings concerning whom a decision is to be made."

Law, unlike medicine and the biological sciences, while dealing with the serious affairs of human life, has felt, with few exceptions, no need of and made no provision for scientific research. This is, in part at least, to be explained by the fact that the science of human behavior has only very recently been developed.

Within the last ten years, however, means have been devised for the scientific study of behavior and law can no longer claim the right to ignore those methods which sociological and biological science uses constantly as an every-day procedure in the study of human beings in their relations to one another.

Ordinarily a case comes into court after only the most meager sort of investigation. It may have been learned, for example, that the facts of the crime or delinquency are true as alleged; it may have been further learned that the individual has had other experiences similar to the one in question, and, in addition, certain facts relating to home life, neighborhood reputation and the like, may have been obtained. But even with the somewhat large and unusual amount of information here indicated, the court would possess little basis for any judicial action. As a matter of fact, the amount of data about a case in court is usually much less than stated above and the court is forced to act on most inadequate information. The results are just what could



be expected, namely: a static condition of crime, that is, a permanent proportion of the community remaining criminal and this proportion never appreciably changing and never varying much from two per cent.; a constantly recurring number of offenses in the same individuals (the recidivists), for the rather obvious reason that no characteriological or true sociological study has ever been attempted.

Take, for example, the case of a man arrested for arson and convicted of the crime with all the evidence in favor of his guilt. Are the court and jury in a position to act upon the evidence? According to established precedent, all necessary data have been presented and it only remains to duly pass sentence. In such a case as this, who knows the man's heredity, his developmental history, his health conditions, his state in regard to epilepsy (perhaps in a masked form), mild and unrecognized insanity, the higher degrees of feeble-mindedness, drug addiction, alcoholism, mental complexes, and a number of other physical and mental factors which we now know may be the determinants of crime? It is only through such a study of sociological, physical and mental details that any real knowledge of the individual may be obtained, and when we realize that eighteen to twenty arrests per person are far from uncommon in our court cases, it is evident that the amount of expense involved in such individual study is financially justified, not to mention the results which accrue to the offender himself.

Whenever such individual studies have been made the evidence is overwhelming that our courts are in the main dealing with people whose minds and bodies vary greatly from the normal and that this fact, in a large degree, accounts for their anti-social habits.

One need only refer to such results as have been obtained by Dr. Healy in Chicago and Boston, Dr. Adler in Chicago, Dr. Hickson in Chicago, Dr. Anderson in Boston, Dr. Ball in Oakland, Dr. Glueck in Sing Sing, to our own studies in Los Angeles, and to a number of other investigations, to be convinced that sociological and characteriological study gives the key to much of the problem of crime and delinquency. Statistics in

such matters are useful and the reader is referred to the results obtained in some of the courts and institutions mentioned, and to the various articles which appear in the *Journal of Criminal Law and Criminology*, and in the *Journal of Mental Hygiene*.

The decision, then, of any serious court case involving crime or delinquency must, if it is to be of any considerable value, include at least the following elements.

*A. Sociological Study.*

Home conditions.

Social status.

Habits and interests.

Community reputation.

Previous court history.

Educational history.

Occupational history.

*B. Individual Study.*

Heredity.

Physical state.

Developmental history.

Disease history.

Mental state in respect to:

a. Intelligence.

b. Sanity.

c. Nervous stability.

d. Mental complexes.

e. General personality.<sup>1</sup>

f. Practical information.

This, in barest outline, indicates the manner of approach to any individual whose case presents any considerable difficulty. In nearly every court today individuals are being tried, convicted, or acquitted about whom the court has little or no actual information except in respect to the legal nature and quality of their acts. The mildly insane, the epileptic, the feeble-minded, the psychopaths, neurotics, and a host of others possessed of abnormal personalities make up the bulk of the stream which flows forever unchecked through our "Halls of Justice." While our parole system and indeterminate sentence are steps in the right direction toward reform in criminal procedure, yet in the main these offer false hopes and superficial panaceas, for the simple reason that scientific means are rarely at hand for the study of the individual delinquent. The optimistic reports of the results

<sup>1</sup> See article on "Personality" by Dr. H. W. Potter in July, 1922, number of *Mental Hygiene*; and one by Dr. I. J. Sands in the same *Journal* on "Some of the Psychological Mechanisms of Human Conduct."

of these innovations in procedure are largely explained by the fact that such reports are for the most part based upon unscientific data colored by a large admixture of sentiment. Not until such reports are subjected to the same rigid statistical analysis which is applied in any other scientific study, can they by any possibility serve any very useful and dependable purposes.

The Psychopathic Laboratory then, will sort and analyze the court material and, so far as possible, offer suggestions as to the ultimate possibilities in each individual case. With such co-operation and assistance, judges and juries will be in a position to dispense justice with some hope of final success, for the reason that each case will be heard upon its individual merits and the remedy applied to the individual as his own particular case requires. As to the organization of such laboratories, this will depend upon the size of the community which it serves and the means available for its support. In general outline, however, such a department of research will include the following activities:

Physical studies.

Mental studies.

Environmental Studies.

Delinquency studies.

For a schedule of data concerning individuals under observation the reader is referred to the section on that topic in Healy's "Individual Delinquent;" and to later publications such as Glueck's "Types of Delinquent Careers;" and Fernald's "Standardized Fields of Inquiry for Clinical Studies of Borderline Defectives;" and the study of individuality by Dr. Nixon.<sup>2</sup>

In respect to a final diagnosis, attention is called to the necessity for taking into consideration all the obtainable factors. As Dr. Walter C. Fernald has said: "It cannot be too strongly emphasized that the proper weighing and final evaluation of all the signs and symptoms of mental defect in a given case presupposes a background of wide psychiatric knowledge and experience."

There is, as Dr. Fernald remarks, a very definite tendency on the part of the *Clinical Psychologists* to regard lightly the psychi-

<sup>2</sup> See Bibliography.

atrical, pedagogical and behavioristic manifestations, and to depend too much on laboratory tests such as the intelligence scales for a final diagnosis.

No field of investigation, for example, is proving of greater value in behavioristic studies than that included broadly in *psychoanalysis*.

### *Personnel of the Laboratory.*

A well trained psychiatrist will be required to direct the work. This individual will need to understand all the modern methods employed in the diagnosis and treatment of mental and nervous diseases and, in addition, be well grounded in general medicine. He should be equipped to use and interpret the various forms of mental or intelligence tests, and he must be acquainted with established psychoanalytic methods. In the larger laboratories one or more medical and psychological assistants should be available and a statistical clerk is of course essential to any successful work. In addition to this, a pathological laboratory must be available for the diagnosis of many conditions which will arise. Wassermann and other laboratory tests for syphilis should be a part of the routine procedure.

Finally, either in connection with the psychopathic laboratory, or as part of the probation system, means must be at hand for acquiring scientific sociological data and for providing follow-up work.

An essential part of this work will consist in accurate vocational guidance of probationers and discharged cases. Those assigned to this field should be under the direction of the psychopathic laboratory. Such a laboratory will finally correlate the activities of all existing social agencies for the advantage of the individuals with whom it is constantly called to deal.

As illustrative of what careful laboratory investigation will uncover, the following cases are offered:



**Case One.***Dementia Praecox.*

A young man of twenty-six years is arrested for passing worthless checks. A study of his case discloses that he has repeatedly been guilty of this offense during the past few years and that he has served two penitentiary terms. It was also clear that this man had greatly deteriorated mentally. He had been graduated from a good high school and afterwards held a number of rather responsible positions, including among others a direction of an orchestra. Nothing during his development period had been significant with the exception of one rather minor offense.

At the time of examination this man was in a much depressed and tearful state and appeared unable to explain the reason for his repeated crimes. An intelligence test showed that his mental level was approximately thirteen years, undoubtedly a much lower level than he had originally possessed. There was reason to believe that he had progressively deteriorated during the last four or five years and had shown less and less responsibility. For several years he had disappeared from home and his whereabouts had been unknown to his people. It was during this period that he had served penitentiary terms. He had finally married, but had soon got into trouble again and was placed under arrest. His young wife testified that she found her husband "kiddish" and irresponsible, given to drinking and to sexual peculiarities. In addition to deterioration of intelligence, this man had mild, fixed delusions of persecution in respect to losing one position after another through the interference of enemies, and also in respect to the alienation of the affection of his wife. His various delinquencies had cost his honest hard-working father over twelve thousand dollars, and it was not until this fortune had been lost, two terms had been spent in penitentiaries, and another term faced, that it was at last discovered, by a proper psychopathic examination, what was the real cause of his troubles.

Prisons and penitentiaries contain hosts of cases similar to this one, cases which have never been examined and which, consequently, have never been understood. The obvious lesson of such

a case lies in the failure of the first court to recognize the pathological seriousness of the case. It shows the necessity for prolonged institutional treatment. A too early uncontrolled parole placed this boy back into conditions in which he was doomed to social failure. Individuals like this one, of the *dementia praecox* type might, if proper means were at hand be frequently so safeguarded, when once their condition was understood, that a final mental collapse could be avoided and for all intents and purposes a cure obtained. Among delinquents, as matters now stand, this disorder is one of the commonest factors in the production of anti-social behavior.

In the case under consideration, it was only after his last delinquency that, on the suggestion of a private physician, he was sent to the psychopathic hospital for observation, where it at once became apparent to the medical attendants that this was a case for the insane hospital rather than the penitentiary. As a matter of fact, this young man's symptoms all pointed to a definite mental pathology existing for at least *eight years* before it became necessary to commit him to the asylum.

### Case Two.

#### *Dementia Praecox Type.*

(Not definitely insane.)

A young man nineteen years of age charged with murder.

This boy, Charles Edwards by name, with another boy of about the same age, rented a machine in Los Angeles to take them to Santa Monica, a near-by beach resort, where Charles claimed they went to collect a debt. On the way back, after separating from his companion, Charles became engaged in an altercation with the driver, who had evidently suspected some irregular plans on the part of these boys and had threatened to give information to the police. Without warning, this boy suddenly drew his revolver and shot the driver in the head, after which he brutally threw him out by the roadside, stole the machine, and drove home. There he complained to his mother of feeling exhausted, went to

bed and quickly fell asleep, only to be rudely awakened in a few hours by police officers, who quickly placed him under arrest for murder.

An investigation of this case brought out the following facts: Charles had previously been before the Juvenile Court several times for auto stealing and had finally been sent to the State Industrial School at Preston, from which he had afterwards been paroled. The mental and physical examination made at this time showed him to be physically sound except for some nose and throat defects. Mentally he proved to be of normal intelligence and fair education. Emotionally, he was recorded as suggestible, unstable and unreliable and unlikely to succeed except under close supervision.

The family history of this boy brought out the fact that the parents were divorced; that the father had been an embezzler in a position of much importance; that his mother had had several nervous breakdowns and, although a woman of high intelligence and ability, showed evidence of insane tendencies of the manic-depressive type. After the murder, a second examination of Charles showed that he was unsocial, moody, inclined to periods of depression and morally callous and indifferent. His emotional indifference was perhaps his most significant symptom and, taken with the other symptoms named, gave evidence of the *dementia praecox* type of make-up.

This young man appeared quite unable to explain his criminal acts or to experience any normal emotion in respect to them. There seemed to be a rather definite dissociation, of the character now recognized as present in this form of insanity.

He was not, however, considered sufficiently insane to be committed to an asylum and was therefore sent to the penitentiary for life, where, under regulated conditions, he may show little evidence of mental unbalance for a long time to come, and may never actually break down under routine, institutional care and protection.

In this instance parole should not have been granted from the reform school, where he had been placed, and definite mental treatment should have been instituted suitable to the type of care

required in his case. Under these conditions, he might very probably have been so improved that under favorable conditions he could have been finally liberated and placed in an environment which would have prevented any further delinquency and mental unbalance.

### Case Three.

#### *Feeble-Minded Young Man Awaiting Trial in Jail.*

Our attention was called to this case by a very competent "trusty" acting as an orderly in the jail dispensary. This young man was twenty-three years old, but had the general appearance of a fifteen-year-old boy. He had been arrested for alleged larceny in a cheap hotel, where he had been employed in manual labor.

Investigation brought to light the following astounding facts: The Criminal Court had kept this boy waiting in jail for trial for over four months. No one in the jail had the least interest or understanding of the case, and by some officers the boy was said to be malingering in order to obtain sympathy. He had been locked up without opportunity for exercise, except in the tanks, with a number of young criminals, all of whom were his physical and mental superiors and by whom he had been imposed upon and abused.

The examination showed that Michael did not know how long ago he had left his home in Chicago; that he could not remember the name of his school or the street in which it was located; that he had only a vague notion of how he came to California; that he knew very little about his family; that he had worked unsuccessfully at very simple jobs, none of which he had been able to hold long. He was in fact a "lost boy." The boy had a mental age of less than six years, and he acted like a young child in every respect—cried when given sympathy—laughed when pleased with simple praise. He was totally ignorant of the commonest sort of information; knew nothing of numbers; could not read, and could write only his name, of which accomplishment he was extremely proud. His mental difficulties showed themselves not



only with tests involving language, but in the performance of the simplest tests such as the "Maze". Yet this "child" had been detained in jail for four months among a set of ruffians, absolutely without opportunity for exercise, amusement or wholesome occupation of any kind. He was a victim of self-abuse to an extreme degree and presented a pathetic figure of mental, physical and moral degeneracy (if, indeed, such a defective boy could be said to be any manner subject to moral comprehension.)

Such cases as this one, while not particularly common, are found in every large jail when search is made for them. A state of affairs which makes such disgraceful social and legal errors as this one possible, presents a serious reflection upon the sincerity and integrity of our state and county governments.

### *Conclusions.*

Our present methods of handling criminals and delinquents are, with few exceptions, inefficient, socially unconstructive and financially wasteful.

Prisoners return to be dealt with over and over again largely because of the fact that their constitutional make-up is rarely understood and consequently no proper provision can be made for insuring their successful placement in life. They return, in the main, to exactly the same conditions in life which, acting upon a more or less abnormal mental constitution, have produced their difficulties in the first instance. Jail or prison sentence has in most cases accomplished nothing except to remove the individual temporarily from society. Jails never improve the economic proficiency or morals of prisoners: prisons rarely do so. On the contrary, the prisoner, by reason of his unwholesome and thoroughly unnatural isolation among individuals of his own character, is rendered worse rather than better and becomes, after his return to society, more than ever before a serious menace to law and order.

What we maintain is that by a sensible study and analysis of the conditions which have resulted in anti-social behavior and arrest, it is practically possible, in large numbers of cases, to

correct or at least control such conditions, to the end that the individual may finally return to society with some reasonable hope of success.

The cause of the prisoner's failure to meet the social requirements are no longer difficult to understand. There is, in the main, no longer any mystery surrounding crime, delinquency and abnormal behavior in general.

No sensible person of experience can hope to solve the problem of crime to the extent of entirely eliminating it, but most persons of experience admit that our present manner of attack leads nowhere.

It is particularly in connection with the parole system that scientific means of study of individuality may be looked to for practical results in the cure and control of crime and delinquency. Such study seeks to place the individual in the place where he fits, within his own limitations. It fits the job to the man rather than attempting to fit the man to the job. Most people, except the hopelessly defective, may be placed in a vocation to which they are suited and in which they will be unlikely to fail; but as things are now, most of the social failures have attempted a hopeless competition in positions in which they are doomed in advance to failure. Neither they nor their employers recognize where the difficulty lies and the result is that large numbers of people who find their way into jails and prisons have drifted about from job to job, never succeeding and finally entering upon a career of crime as the easiest way of meeting their difficulties.

The work of a jail or prison laboratory, therefore, includes the following problems among others:

1. The discovery of various degrees of feeble-mindedness. (At present twenty to forty per cent.)
2. The discovery of various degrees of insanity. (At present about three per cent.)
3. The discovery of character peculiarities which are not included in either feeble-mindedness or insanity but may be related to one or the other, the psychopaths. (At present about fifteen per cent.)
4. The discovery of the epileptic make-up.

5. The discovery of social conditions which have contributed to or produced trouble.

6. Vocational guidance of a scientific character in connection with the Parole Department.

Nothing which has been said here is intended as a denial of the fact that many persons who come to arrest and confinement in jails and prisons are, so far as we can determine, perfectly responsible for their acts and behavior. We have referred only to the fifty to seventy-five per cent of individuals now known wherever scientific studies have been made, as definitely and determinably defective in one way or another.

The final assertion is made that it is from this large class that most of the social and financial problems arise which a county or state is called upon to meet in their attempts to control crime, delinquency, pauperism and related conditions.

## CHAPTER XVI.

### A NEW TYPE OF FARM AND INDUSTRIAL COLONY.

Up to the present time no state has adopted a satisfactory method of providing for persons who are slightly abnormal or subnormal. There are penal institutions for the criminals; hospitals for the criminal insane and for other cases of major insanity; institutions for the care of delinquent children; and "county farms" for the care of aged or disabled dependents. But nowhere is provision made for the care and welfare of that vastly larger army of not-quite normal individuals who are forever drifting into one or another of these unsuitable institutions just enumerated. No one familiar with the situation will question the urgent need of some suitable method of caring for these unfortunates. If for no other reason, it is a necessary step for community protection.

A step in the right direction has been made by the establishment of psychiatric clinics in various places. But such institutions are merely ripples on the surface. They make no provision for the permanent care of the border-line cases that are too nearly normal to be kept in our custodial institutions, yet not quite normal enough to get along satisfactorily outside.

The necessity for vocational institutions or farm colonies to replace the old type of penitentiaries is too obvious to need any great amount of argument.

Every one who has given the subject any considerable attention knows that our present system for the handling of criminals is inadequate, inefficient, and, to a very large extent, positively harmful to health, character and personal efficiency. With a few notable exceptions our prisons are still largely in the medieval stage of development, with treatment based on a mistaken notion of the character of criminals and the needs of society. But there is a vast number of social inadequates who are not at



present provided for, even by any plan, however poor, unless at last they become actual criminals or in some other way become wards of the state. Yet it is from this class that a large number of criminals are finally recruited. It is for this type of defectives that a new kind of Farm and Industrial Colony is proposed. Such an institution would be largely preventive in nature and, in the long run, would greatly reduce the number of criminal cases which eventually reach our courts and penitentiaries.

In the case of certain diseases, such as epilepsy, the situation is being met by the establishment of communities, or "colonies". And this suggests that similar special communities, on somewhat broader lines, might solve the problem for these other types of unfortunates. Or, stated in another way, such communities might be made the haven for the unfortunates who now often roam at large because they are too sane to be in an insane hospital, although not entirely sane; too intelligent to be in an institution for defectives, although not always very intelligent; too upright to be in an institution for delinquents, although not entirely upright; or too healthy to be in a colony which cares only for persons that are entirely unhealthy. Such persons are a constant menace to society. And their aggregate number is undoubtedly greater than the combined numbers of all persons now in institutions of whatever sort. Most of these people are *psychopaths* of one sort or another, or border-line cases.

Since these individuals are somewhat different from the type of persons now in our institutions, or "colonies", it follows that they must be provided for along somewhat different lines. A very wide departure from the ordinary type of institutions would be advisable, and possible, because most of the individuals of this group would become useful members of society in a special environment, although not quite able to adjust themselves to outside communities where they are thrown entirely upon their own resources. Many of them when removed from the stress of outside competition, could become self-supporting and self-respecting individuals.

Under our present system, many of these unfortunates become charges of the state sooner or later either as criminals, paupers

lunatics, or drug addicts. As such they are merely liabilities, because in no instance are they self-supporting. Yet so long as they remain at large they are more or less of a menace to their communities.

Many of these individuals would undoubtedly be placed in some institution for custodial care by their friends were it not for the fact that residence in any of our custodial institutions is regarded as something of a reflection upon an individual—a stigma. This is unjust and deplorable. But there is no escaping the fact that any individual who is, or has been, confined in any of our asylums, correctional institutions, or industrial schools is looked at askance by the general public.

Theoretically, it is no more of a disgrace to have an attack of the disease called insanity than it is to be afflicted with the disease known as influenza. But practically it is so. Should anyone doubt this, let him make a simple mental analysis of his own feelings about the choice in kinds of illness for himself or one of his friends—whether he would have quite the same feeling about being confined in an insane hospital for the treatment of a mild case of insanity as he would about being cared for in a hospital for an attack of “flu”. One of these conditions is just as much a disease as the other; both may be curable, both may prove fatal, both may recur. Yet no one would choose the attack of mental illness if given a preference. Moreover, no one regards these two kinds of diseases from quite the same angle. Reason about the matter as logically as we may, we cannot entirely suppress our emotional reaction which still places a stigma on the misfortune called insanity. Wherefore, the institutions where insanity is treated are still placed in a separate category from general hospitals in most person’s opinion.

There is a very clearly defined reason for this heritage of public suspicion. Most of our institutions have evolved from the older forms of asylums, prisons, jails and poorhouses. To be sure, we have changed and juggled the names so that our asylums are now hospitals, our reform schools are industrial schools, and poor farms are just “farms” with the odious adjective omitted. We have also improved the insides and outsides as

well as the names of these places. But the bad heritage still obtrudes itself.

This new type of institution, or community, might be established without the misfortune of a bad heritage. It will have no ancestry. Wherefore, there need be no closets for concealing family skeletons. It should be constructed about the three main objects of its creation, namely, education, agriculture, industry. And in so far as would be practical, it should be established and maintained along the lines of any well governed town or village. Some of the religious communities, such as the Shakers or Dunkards, offer good working models.

This new community need not differ essentially from any well organized village community except perhaps in the matter of special schools and certain special restrictions to meet the needs and peculiarities of its members. It would necessarily be the property of the state; but when once established the supervision of the state need not be irksome, and practically very little more than of any other self-sustaining community.

The members of this community would be drawn from the army of mildly abnormal persons who, because of their mental defects, are not quite able to adjust themselves to the life in outside communities. These would include among others many of the psychopaths and other border-line cases. Of course, the superior officers—the “mayor and his councilmen,” if you please, the teachers and instructors—would not be drawn from this class. But in the main the inhabitants would be the high grade morons and mildly psychotic individuals of both sexes who are not as yet driven to viciousness by their infirmities and consequent inability to compete in outside normal channels. For it is clearly established that a very high percentage of these unfortunates do well, and continue to do well, when placed in proper surroundings under mild supervision.

There are hundreds of these individuals in every state who, we believe, would voluntarily seek such a place of refuge. There are others who could be induced to go there; and still others whose friends would find it expedient to place them in such care. In this way outside communities would be relieved of the burden of this class of persons for whom there appears to be no

place at the present time. And once these individuals had become established in such a community it is probable that they would remain there voluntarily and gladly. For these people, as a rule, feel the need of some protection, and cling to any place of refuge which offers it.

In proof of this is the fact that a very high percentage of the inmates of our custodial institutions—the asylums, hospitals, alms-houses—prefer to remain in custody rather than be again thrown into the maelstrom of relentless competition outside. It seems certain, therefore, that most of the inhabitants of our proposed community would gladly remain indefinitely as voluntary members.

The first thing in the establishment of such a community would be the acquisition of a proper tract of land by the state. On this land would be erected suitable buildings for the schools and shops, the housing quarters and the places for recreation. In short, the state would go about this in practically the same way that it does in establishing any new institution, such as a public hospital or industrial school where there is community life.

The general plan of such a community should be that of a prosperous small town or village rather than an institution. Most institutions are clusters of great buildings, unpleasantly suggestive of restraint. This new community should depart as far as possible from any such suggestion. The dominant idea should be that of pleasant home life, with the inhabitants living in detached houses and going to the fields, schools, and shops just as in any normal community.

Such an arrangement suggests a very high initial cost—very much higher than where larger buildings are constructed. But practically this need be no obstacle. Its construction could be in small units, added to and expanded in much the same way as any thriving community. And meanwhile, almost from the start, the investment could be making returns because the inhabitants would be productive workers, not absolute dependents. For this reason, the state could afford to be liberal in its initial outlay.



Many great industrial concerns, whose sole object is profit, find it expedient—that is, they find that it will increase their profits—to build attractive villages for their workmen. And if commercial institutions consider that this sort of thing is a good investment, surely the state should find this closely similar enterprise profitable.

The practical means of selecting the inhabitants for this community would be relatively simple. At the present time most of our large and well organized communities have special arrangements for segregating and giving special training to school children who are not quite normal. Boards of physicians and psychologists whose function is to pass upon the mental capacities and peculiarities of children could easily select suitable inhabitants for this community. And these boards could extend their activities to include the examination of the older candidates for admission.

Let it be understood at once that these suggestions are merely tentative and subject to the broadest interpretations and flexibility. For, naturally, as the community developed and took definite form, necessity would shape the course of actions along the various lines.

Since the state has already made provisions for the care of persons who are too insane or too defective to care for themselves, or too criminalistic to be at large, none of this class of persons would be accepted as inhabitants of the new community. Broadly speaking, the acceptable applicant would be one who has sufficient mentality to work productively under moderate supervision, or one who has sufficient mental poise to adjust himself to these conditions.

It would be understood, of course, that every acceptable applicant must be in reasonably good physical condition. This does not imply that the applicant must necessarily be robust or athletic, but simply that he is not suffering from any disease which is communicable or that may put him in a hospital later on, or that he is crippled or handicapped physically to such an extent that there is no possibility of making him a reasonably good wage earner. The state already provides for its disabled unfortunates. In this way it would be possible to develop a community that

would be up to the standard physically of the average outside village—indeed, it would be greatly superior to such communities in this respect. And although the average intellectual standard would be low by comparison, the standard of productive effort would be such that the community would presently be an asset to the state rather than a burden, as is the case of all other state institutions.

As the object of this community would be to provide a permanent home for its inhabitants, some provision must be made for the establishment of family life as well as community life. It would be futile to attempt such a community otherwise. But it would be more than futile—an actual calamity—to permit this population to marry and perpetuate its defective stock. Yet some provision must be made to meet the problem of sexual life.

As it is well known, the sexual instinct is a strongly developed one in these individuals. The moron is "the most marrying person in the world", as some one has observed. And some provision must be made to meet the problem presented by this dominant, over-developed, or at least uncontrolled, instinct in both the high grade mental defectives and in the border-line psychotic cases.

If this problem is considered from a rational and practical standpoint its solution is not difficult. Let the inhabitants marry and establish homes, or enter homes already established for them, just as in other communities. But with this difference—that the applicant for marriage submit to *voluntary sterilization*.

The operation for sterilization is painless and practically without danger. In the case of the male it is so simple and painless that it does not incapacitate the individual even temporarily. Even in the case of the female there is so little danger and discomfort connected with the operation that it need be no deterrent. And there is every reason to believe that both the applicants for marriage in this community would readily submit to this operation.

The benefit to the community and to future generations would be tremendous—almost incalculable. Its immediate effect would be to eliminate, or reduce to a minimum, sex crimes and pervers-

sions. Meanwhile it would not be detrimental in any way to the health and happiness of the members of the community. This in itself—this solution of the greatest of all problems in any community—would seem sufficient grounds for justification. But, looking a little into the future, a still greater benefit to humanity would result. There would be no defective offspring of this defective stock—a step towards Utopia that is the dream of the practical eugenist.

It is a fact established beyond question that mentally defective parents beget defective children. This is the source of most of our mental defectives at present, so that if we could remove or sterilize all of these defectives in this generation there would be relatively few in the next generation.

These facts are of course truisms accepted everywhere because established by actual observation. So that by permitting marriages only after sterilization in this village community we would be taking a tremendous practical step forward in the cause of eugenics. And this is but another way of saying that we would be making the world better by raising its general average in brain power, and mental balance, for not only would the highest grade and most dangerous of morons be placed under control, but also the great army of border-line psychotics who at present furnish perhaps our greatest problem in social control.

## CHAPTER XVII.

### METHODS OF PROCEDURE AND DIAGNOSIS IN CRIMINAL AND DELINQUENT CASES.

In arriving at a diagnosis in criminal and delinquent cases, certain fairly definite procedures should be followed. There are no standardized methods in criminology as there are for example in the study and diagnosis of feeble-mindedness alone, but nevertheless some sort of systematic method should be observed. What one wishes to know, if possible, is the degree of responsibility of the individual under consideration. As already indicated in other chapters any one or more of a considerable number of defects or environmental factors may present. These in the main include the following:

1. Insanity.
2. Epilepsy.
3. Feeble-mindedness.
4. Psychopathic personality.
  - (a) Alcoholism.
  - (b) Drug addiction.
  - (c) Unmoral disposition.
  - (d) Sex perversion.
  - (e) Degeneracy in general.
5. Psycho-neuroticism.
6. Faulty education and training.
7. Various anomalies of personality.

Most of the criminal and delinquent classes may be placed under one or another of these convenient but somewhat artificial group divisions. This classification is of course to a considerable degree one of convenience rather than one of scientific accuracy, for a number of the groups overlap more or less, and there are



other defects which are encountered but which are not here specifically mentioned.

Aside from the defects listed one must also, of course, take into consideration the whole realm of environmental influences which tend to warp an individual's personality.

Dr. Glueck classifies prisoners as follows:

1. The normal prisoner capable of learning a trade if he has not already done so.
2. The normal unskilled adult laborer.
3. The insane delinquent.
4. The defective delinquent.
5. The psychopathic delinquent.
6. The late adolescent delinquent.

This plan is merely suggestive.

Having decided upon a general plan of classification, an investigation must be made, as complete in character as possible, of the individual under consideration. Glueck suggests a method of studying the causes of maladjustment resulting in delinquent careers by means of a developmental chart.<sup>1</sup>

In this chart both hereditary and environmental influences are indicated as they are likely to occur at various ages in the individual's development.

Such a chart presents a curve representing a life cycle divided into age periods, "the factors enumerated outside the curve constituting the environment etiology of maladjustment, and those inside the curve the constitutional causes."

For an examination of feeble-minded and of border-line defectives one should have recourse to some such method as that of Dr. Fernald.

In this the following "Fields of Inquiry" are included:

1. Physical examination.
2. Family history.
3. Personal and developmental history.

<sup>1</sup> Types of Delinquent Careers.

4. School progress.
5. Examination in school work.
6. Practical knowledge and general information.
7. Social history and reactions.
8. Economic efficiency.
9. Moral reactions.
10. Mental examination.

"A special syllabus for each field of inquiry has been developed which indicates the general line of investigation to be followed and provides for the recording of the facts obtained."

Dr. Fernald remarks that in the feeble-minded group evidence of mental defect will be found in most of the ten fields enumerated and that even in the border-line cases, where the defect is slight, evidence of mental defect will also be found in nearly all of the fields of inquiry. He also calls to attention the important point that it is by no means indispensable to always obtain data in all of the ten fields. In fact this is often impossible in routine procedure. Fields 1, 2, 5 and 10, or fields 1, 3, 4 and 10, or fields 5, 6 and 10, or fields 5, 7, 8 and 9 are quite sufficient to convince the experienced investigator as to mental defect or otherwise. "Psychiatric, pedagogical, and behavioristic manifestations are often quite sufficient to settle the mental status of presumably feeble-minded persons."

Dr. Fernald further states: "The qualitative significance of faulty memory, visual perception, learning capacity, associative memory, are expressed as definitely in concrete terms of developmental history, school progress, and pedagogical measurements, social reactions, economic viability, and ethical reactions, as in the abstract findings of the psychological laboratories. In the present state of our knowledge, the behavioristic interpretation and evolution of the anthropological and pedagogical expressions of the individual, his practical capacity for social adaptation and for meeting new situations, his power of ethical inhibition and control, his affective balance, are also as truly scientific as the result of formal intelligence tests."

For ordinary practical purposes, it will be found inexpedient to enter into great detail in the study of the criminal and the delinquent, much as this may be desired. Certain important factors, however, are indispensable in arriving at a sound diagnosis. These will include as a minimum procedure the following:

1. *Family History*: Especially in respect to insanity, feeble-mindedness, epilepsy, unstable personality, neuroses, syphilis, tuberculosis, social standing, financial success.

2. *Development History*: Especially in respect to childhood diseases, play, disposition, school history, character of puberty and adolescence, associations, home training and the like.

3. *Adult History*: Especially in respect to occupations, success, persistence, general disposition, associations, general habits, specific habits, sex-life, etc.

4. *Criminal or Delinquent Career*: Especially in respect to the duration, character of, success or failure in, individual's explanation of, repetition of, attempts at reform.

5. *Personal Examination of Individual*: Especially in respect to general health, venereal diseases, tuberculosis, sense organs, disease history in general, general personality, insanity, mental defectiveness, epilepsy, psychopathic personality, neuroses.

In the study of the criminal's intellectual capacity use may be made of a number of standardized psychological methods, or psychometric procedures.

These include particularly:

1. The Stanford Revision of the Binet-Simon Test.

2. Yerkes-Bridges Point Scale.

3. Group tests, such as the Army tests; the Morgan test, the National Research Council test, the Terman Group test, certain performance tests, such as Trabue's.

In the diagnosis of psychoses use may be made of a fairly well standardized procedure, such as Rosanoff's or Dr. Franz's, but here experience will after all be the most valuable guide for the examiner for no amount of adherence to a standardized method will greatly aid one not experienced in the observation of the insane, and even experience is in itself no absolute quali-

fication, for more than all else there is here required a particular sort of natural ability for accurately observing and understanding human traits, a quality which is aided by, but never learned in, books or even experience.

The Psychopath is the most difficult of all delinquents to understand and certainly there are at present no special methods by which to study him, if we except the somewhat questionable "Association test." One must here be largely guided by a sense of keen observation and the general history of the case, and not overlooking the highly probable physical basis in a defective endocrinal system.

Epileptics ordinarily present us no great difficulties in diagnosis, although those presenting only epileptic equivalents may sometimes be confused with cases of dementia praecox or unstable personalities. For methods of recording results one may find much that is suggestive in Dr. Healy's *Individual Delinquent*.

For ready reference in Criminological Study the examiner will require at least the following works:

1. *The Individual Delinquent*—Healy.
2. *Psychology of the Normal and Subnormal*—Goddard.
3. *The Basis of Psychiatry*—Buckley.
4. *Text book of Psychiatry*—Rosanoff.
5. *Hand book of Mental Examination Methods*—Franz.
6. *Feeble-mindedness*—Goddard.
7. *The Journal of Criminal Law and Criminology*.
8. *Crime and its Repression*—Aschaffenburg.
9. *Principles of Mental Hygiene*—White.
10. *Journal of the American Mental Hygiene Association*.
11. *Journal of Insanity*.
12. *The Juvenile Delinquent*—Goddard.
13. *The Measurement of Intelligence*—Terman.
14. *The Drug Addict*—Williams.
15. *Mental Complexes and Misconduct*—Healy.



In addition to these there is a large bibliography with which any criminological expert should be familiar. Reference to a part of this may be found in the appendix of this book.

As to methods of psychoanalysis, one need not subscribe to the Freudian psychology except in broadest outlines to avail himself of the most useful principles of this procedure. That tapping the less conscious mind often brings to light conflicts, repressions and complexes which often result in character peculiarities, nervous disorders or abnormal behavior, no experienced psychiatrist can for a moment doubt.

In the study of personality which is now receiving much deserved attention, several methods have been suggested. The guide arranged by Dr. Howard W. Potter, of Letchworth Village, New York, is particularly useful for this purpose. The full discussion of this guide may be found in the July, 1922, number of "Mental Hygiene." It was formulated originally for use with the higher grade of mental defectives, but it is equally useful in the study of people of normal intelligence.

Dr. Potter attempts to dissect personality into its components under the following general heads:

- A. Intellectual characteristics.
- B. Sense of responsibility.
- C. Industrial efficiency.
- D. Output of nervous and muscular energy.
- E. Habitual reactions to inferiority.
- F. Sociability.
- G. Conduct and behavior.
- H. Mood.
- I. Reactions related to mood.
- J. Special aptitudes and interests.
- K. Unique and pathological traits.

He then proceeds to define several types under each of the components, as for example, under the second of the above heads;

## B—SENSE OF RESPONSIBILITY.

- Type I. Actively irresponsible, heedless, unconscientious, contemptuous of usual standards, of social and economic fitness.
- Type II. Undeveloped sense of responsibility, unappreciative of rights of others, etc.
- Type III. Fair sense of responsibility, conscientious, appreciative of others rights, willing to conform, willing to be helped, etc.

As Dr. Potter says, knowing the intelligence quotient, or mental age of a person gives little idea of the possibilities of the individual. His powers of adaptation in society depend not only on his intelligence, but also on his instinctive and emotional reactions. Such a plan as this greatly aids in penetrating into the kind of personality possessed by the defective or normal person under examination. We have too long placed faith in mere psychometric or psychiatric data to the exclusion of many other of the fundamental factors of personality.

## CHAPTER XVIII.

### THE CRIMINAL, THE LAW, AND THE RESULTS.

To any student of crime and criminals it is perfectly clear that in the main criminals are individuals who, because of defects of heredity or of an unfortunate environment, or both, are unable to adjust themselves to the ordinary social restraints of life. "Most of every man's heredity is hidden in the mist and darkness of the past. He inherits through an infinite number of ancestors, reaching back to primitive man and even to the animals from which he came." His immediate heredity is, however, far more important than his remote, and this, as well as his environment (education, training, and all that has entered into his daily influences), needs careful investigation whenever he becomes an offender in society. But law, or rather, the agents of the law, furnish no means for such a study except in very rare instances. As Clarence Darrow has said in his book on "Crime, Its Causes and Treatment," "If doctors and scientists had been no wiser than lawyers, judges, legislatures, and the public, the world would still be punishing imbeciles, the insane, the inferior, and the sick, and treating human ailments with incantations, witchcraft, force and magic. We should still be driving out devils out of the sick and into the swine. The treatment of the criminal class has as yet, however, scarcely advanced beyond this ancient stage of ignorance and mysticism. Man, in his behavior, is governed by his heredity acted upon his own particular environment, whatever by chance this happens to be. He must inevitably react to such stimuli as he receives; whatever he is and does, his every act, is a result of natural laws now fortunately fairly understandable by those who care to study them. If we are ever to make any progress in criminal cure or control, we must, then, seek to adjust environment to

heredity, not the reverse, as has always been the custom. For, if there is anything clear about those whose acts we call anti-social, it is that these people are victims of mal-adjustment; that they are unable to meet the complex conditions present in every day life. "The smallest reflection ought to teach that for many, if not most crimes, it is hopeless to release the prisoner into an environment where he can not survive." Yet this is just what the state usually does. On the assumption that the criminal is deliberately immoral, anti-social, and vicious, and that punishment will cure him and deter others of his kind, we have for all time proceeded on the wrong basis. If it were true that punishment as such, is curative and deterrent, then crime should long ago have disappeared, or have been greatly reduced, neither of which results has ever yet obtained.

The tortures and horrors of the ancient prisons, the vengeance which society has for ages visited upon the malefactor, should, on this presumption, have resulted in the cure or control of crime; but today we know, or ought to know, that crime was never more rampant.<sup>1</sup> Promptness of trial and sureness of penalty have long been offered as a remedy, and England and certain parts of Europe have been pointed out as examples of success in this respect. Indeed, the Committee on Crime, of the American Bar Association, has recently (1922) come to just this conclusion. That such a conclusion is mainly fallacious should be apparent to any scientific student of crime and criminals. It should only be necessary to call attention to the fact that our own country is made up of a very heterogeneous population, while that of the older countries is mainly homogeneous; that, in the main, our own country has for years been the dumping ground for many of Europe's undesirables, with a consequent great excess of prisoners in our penal institutions of foreign blood. As has well been pointed out by Darrow, an old country with its life of caste lacks the freedom and equality that naturally produce defiance of rule and customs and lead to breaches of the law. Therefore, even this undesirable class of

<sup>1</sup> Burglaries have increased 1200 percent in this country in the last decade.



people already referred to might easily be under better control in the more restricted environment of their own country than they are in ours. "It does not necessarily follow that the country is best where the people are most obedient. Complete obedience leads to submission and to despotism." It is a fact, for example, that under the complete military discipline of the army, men of criminal make-up may give relatively little trouble.

Vengeance is less in evidence in our present attitude towards the criminal than it once was, but, after all, our attitude is only thinly disguised. The public is nearly always against the accused and so is the press and the Public Prosecutor, and all the machinery of the law. Uncovering the motive does not explain the cause. The public means well, but in times of intense emotional reaction, intelligence and reason count for little. And so it happens that it is almost hopeless to expect to bring order, justice and reason out of such a chaos of prejudices. As Robinson says in his "Mind in the Making," "The person who justifies himself by saying that he holds certain beliefs, or acts in a certain manner on principle, and yet refuses to examine the basis and expediency of his principle, introduces into his thinking and conduct an irrational, mystical element similar to that which characterized savage prohibitions. Principles unintelligently urged make a great deal of trouble in the free consideration of social readjustments, for they are frequently as recalcitrant as the primitive tabu, and are really scarcely more than an excuse for refusing to reconsider one's convictions and conduct. \* \* \* \* The conservative on principle is, therefore, a most unmistakably primitive person in his attitude."

The public in general, legal procedure in particular, and the machinery of restraint and reform all act upon long-established customs, codes, procedures and prejudices, with little real knowledge of the nature of man and the antecedents of his behavior. Such action is, indeed, based upon "principles," but principles which represent the conservatism of the scientifically untrained mind. Abnormal conduct or crime is, by most people, considered to be due to ordinary viciousness or wickedness; to deliberately chosen selfishness and defiance of the rights of others, and

should, therefore, on such a theory be treated by an easily applicable remedy—punishment—usually poorly disguised as reform. But just as there are many causes for physical diseases and deformities, so there are many causes for mental and social diseases, which exhibit themselves in part in lawlessness and other forms of anti-social conduct. Crime has perfectly natural origins, and there is no longer any excuse for proceeding on primitive theories as unscientific as they are valueless. Multiplication of penal laws, millions for prosecutions, more money for jails, police officers, penitentiaries and reformatories than for colleges and higher education, have not as yet served to reduce crime, reform the criminal, or to any considerable degree protect society.

It is not at present possible in the absence of any reliable criminal statistics which should, but do not exist, to prove the alleged great increase of crime, but ordinary knowledge and experience are sometimes as valuable as statistics, and much more valuable than unscientific statistics, and common knowledge teaches us that everywhere crime is becoming increasingly and alarmingly common. Murders, hold-ups, bank robberies and burglaries are commonplace affairs today, so much so, indeed, that they have nearly ceased to startle us and have wholly ceased to shock us. The presence of an increasingly large number of the fairly well educated among our present criminals and delinquents is particularly significant.

Every great war has been followed by a wave of crime, principally because of the disturbed social conditions, and, as many believe, because of the lowered morale which inevitably follows the overthrow of the established moral and social ideals which society has painfully built up during long periods of relative peace. No such general and moral and social set-back as the world has experienced in the last ten years can occur without a generally disorganized civilization, not the least evidence of which appears in crime. Under existing conditions we may reasonably believe that war has been inevitable, but we cannot reasonably maintain that such conditions need always exist, if man

can at last throw off his heritage of the long past—his savage mind, medieval inheritance, and fatal prejudices.

If one asks for a social prescription to cure the ills which are here discussed, no well informed and sincere student of behavior can offer it. The cure is as complex as man and the society in which he lives. But we do know that this cure is not to be found in the application of what amounts to primitive tabus, medieval punishments, and social restraints, when these are based upon the theory of equal moral responsibility, mental integrity, and physical soundness of all. Such a judicial and curative prescription must, on the other hand, be based upon a sound understanding of the antecedents of all behavior, both normal and abnormal; upon comprehension of the limitations of human responsibility; upon the appreciation of the inescapable facts of heredity and the modifying possibilities of environment; upon the willingness and ability of the lawmakers and those who carry the law into execution, to modify these laws and procedures so as to meet the needs of our enlightened knowledge of the causes of human behavior. That we are entering upon such a new era of sympathetic understanding based on the solid foundations of science, no true student of mankind can well doubt.

"Punishment can deter only the ground of the fear that flows from it." Fear does no doubt offer some protection when it is properly applied to the criminal who is too unintelligent or otherwise defective to listen to, or act upon reason. But we must remember that "fear comes from things that are more or less criminal," "and extreme punishments may grow so common that few of them give any concern. They are so common now that the impression they make is not very great." As Clarence Darrow remarks, "All prisons should be in the hands of experts, physicians, criminologists, biologists, and above all, the *humane*."

All sentences, he points out, should be indeterminate, and every prisoner should be placed under competent observation, just as if he were ill in a hospital. Crimes are not all alike, and neither are all offenders alike.

Such a system can never be put into effect as long as men

believe in vengeance. The criminal is usually individually sick, or sick in his attitude toward society, and such people should not be released until by understanding, or education, age, or the proper form of treatment, it is fairly evident that he will not offend again." But it should be well understood that the make-up of many individuals is such that they can never successfully survive in an environment which is not adjusted to their own particular make-up, as fixed by their heredity and training. Such an environment must, in very many instances, be artificially made by the state, for in the last analysis personal liberty often ends where the welfare of society begins. Just so long as we persist in the belief that crime is only sin, curable by punishment, just so long, shall we have our present criminal problems. A leaking ship can be pumped out, but the leaks and the pumps continue action until the ship sinks or the defect is found and repaired.<sup>2</sup>

<sup>2</sup> Inasmuch as the statistics in Chicago, owing to the work of the Chicago Crime Commission, are fairly accurate, we beg leave to offer the contrasts shown by these statistics as illuminative of the entire criminal situation.

The population of Canada is about 9,000,000, that of Cook County, Ill., about 3,000,000, and that of Chicago 2,700,000. Notwithstanding this, we find that there were in 1921:

In Joliet Penitentiary, one of the Illinois State prisons, 1,930 prisoners.

In all Canada's penitentiaries, 1,930 prisoners.

In Chicago 4,785 burglaries.

In Canada 2,270 burglaries.

In Chicago 2,594 robberies.

In Canada, robberies, including larceny from the person, 605.

In Cook County 212 murders.

In Canada 57 murders.

It will not do to say that the Canadians are naturally more law-abiding than we, for the United States census of 1910 shows that when persons born in Canada settle in the United States, they are even a little less law-abiding than the native white citizens of this country. Out of a Canadian-born population of 1,196,070 in this country in 1910, 7,956 were in our prisons, and out of the natives of seventeen foreign countries living here, Canadians ranked sixth in lawlessness.



## CHAPTER XIX.

### RETROSPECT, PROSPECT AND SUMMARY.

McConnell, in his book "Criminal Responsibility and Social Constraint", states that one of the most expensive functions of government is concerned with the detection, arrest, trial, and punishment of criminals. This expense, he says, exceeds the outlay for the "conservation and improvement of health, the necessities and conveniences of travel, of highways, parks and playgrounds, and about equals the costs of education." What is the object of it all? he asks, and what kind of return does society get for such an enormous investment? The answer is, that society obtains very inadequate returns, and that as a matter of fact society has very indefinite notions of what it hopes to secure from this whole wasteful procedure anyway. Different people and classes of people entertain different ideas of the purposes of the present treatment of criminals and delinquents, for example, these ideas differ somewhat as follows: 1, "For the compensation of damage done; 2, to restore social equilibrium; 3, to make a lasting impression on the memory and imagination of the criminal and of others who know of his crime in order that this may act as a deterrent; 4, to awaken feelings of remorse and penitence; 5, to expiate for sin; 6, to eradicate a plague spot and prevent further spread of social infection; 7, to purify the human race by weeding out the degenerate members of it; 8, to instill fear of the law and of those who enforce it; 9, to satisfy a feeling of revenge." There seems, says Professor McConnell, no general agreement as to whether punishment is retrospective or prospective, whether it is intended to requite the past or to mould the future. All the variations in the object of punishment may, McConnell says, be reduced to four fundamental types: *expiation*, *retribution*, *deterrence*, and *reformation*. Before laws were established, individuals settled their own disputes, or one clan or

tribe united against another in the interest of an individual. Family feuds, in certain parts of the South, in this country, and in other countries, up to rather recent times were of this general nature. In these instances revenge was the basis of the attack, with no thought of reformation and perhaps very little of deterrence. "Blow brought blow, revenge bred revenge". A state of chronic feud and social disorder perpetually existed. Such a state of petty warfare was incompatible with social welfare and was gradually but very slowly replaced by some form of more or less impartial authority, which originally may have been relegated to a Chief, a King, a Public Assassin, or a special group of avengers, until finally there were developed Courts of Justice with established rules of procedure and evidence. Such courts were vested with rights to fix the penalty and carry its execution into effect, and often these rights were practically unlimited. "The most important thing to bear in mind while contemplating this historical transition from (private) revenge to punishment is this: that the fundamental principle of retribution remains the same throughout. Even after the establishment of judicial authority to regulate punishment, the principle was still that of returning evil for evil and in proportionate measure. Indeed, the state, with its unrestrained power, has proven an even more terrible avenger than the individual. The most cruel and vindictive punishments that malignant ingenuity could devise have sometimes been administered under the sanction of law and in the name of justice."

This condition does not, of course, obtain at present, but for all practical purposes our criminal laws have undergone little change since the time of Beccaria, and except in the most obvious cases of mental incompetency, courts take little account of the personal responsibility of the criminal or of the social conditions which have contributed to his transgressions.

Whatever theorists may suppose to be the facts in regard to the responsibility of evil-doers, an intimate practical acquaintance with them proves that in the main they are not only very dissimilar among themselves in this respect, but that they deviate greatly from the average non-criminal population. As we have

already shown in previous chapters, the criminal population in the main is composed of many types of abnormal individuals, including, aside from the casual offenders who differ but little if any from most people, the insane; the near insane; psychopaths; epileptics; the feeble of intellect and a great group of social misfits who do not necessarily fit exactly into any of these classes but who compose many of the prostitutes, hoboos, drunkards, vagrants, perverts, beggars, and professional thieves.

The treatment of these various types must be differentiated, and determined as far as practical by the type to which the offender belongs. The control of criminality is consequently an enormously complex problem which includes many factors of a social, mental, physical and ethical nature. While the idea of punishment for revenge is possibly biologically sound and reasonable, and as a matter of fact is present in all of us to some extent, and while it may have been necessary for survival on the theory that "the individual who is incapable of returning the evil done to him is a being poorly endowed to survive, and destined to disappear sooner or later in the struggle for existence," yet this idea on careful analysis is found ethically unsound. Civilized man is gradually coming to understand that punishment is valuable chiefly in so far as it protects and preserves social well-being. "On the basis of social necessity then, legal vengeance is justified", but this is only just to the degree that it is socially necessary and useful. No one can truthfully say that punishment does not have some deterrent effect, but unless the nature of the offender is understood and the punishment meted out in accordance with his own peculiar requirements, little, if anything will be accomplished in the way of social or individual good.

Those who know most about the feeble-minded in institutions state that discipline or punishment has its place even with those of rather low degree of intelligence, while even with the insane, of a certain class at least, the same practice holds good, as those who have had institutional experience well know. The mere fact of more or less irresponsibility does not necessarily imply that certain types of desirable habit formation may not be forc-

bly instilled whether it has any ethical basis or not. If this were not true the whole idea of the training of animals and of children would be valueless, but we well know from experience that this is not the fact.

In the scientific discovery of the causes of the offender's misdeeds, whether these be social, mental, or physical, or a combination of these, modern procedure should be directed toward the application of such forms of punishment as are adapted to his special needs. At present this is seldom done and punishment is usually either frankly vindictive in character, or grossly misapplied on the basis of the damage done against established legal codes, without much regard to the constitution of the individual in question.

According to the new point of view, as Professor McConnell says, the alcoholic will receive one kind of treatment, the epileptic another, the insane or feeble-minded another. "The wild beast of a man will be kept in prison for life or put to death. The professional criminal, who has gone into crime as a profitable business, will be dealt with so severely as to convince him of the unprofitableness. The chance delinquent or the wrongdoer by accident will receive an education calculated to strengthen his character against future lapses. The young offender, the first offender, and the petty offender will be placed on probation and left freedom conditioned upon future good behavior. . . . The decision concerning kind and length of treatment will be rendered, not by the sentence of a judge, but by the directors of houses of detention and correction who watch the cases from day to day, with the right of appeal to a Superior Court consisting perhaps of the State Prison Commissioner, the sentencing Judge, and the Warden of the institution. Agencies will be established for educating backward children, for improving juveniles, and for aiding discharged prisoners."

## SUMMARY.

In the preceding chapters we have attempted to trace briefly the history of crime and criminals from earliest conceptions to the latest modern views of criminologists and sociologists.



We have tried particularly to stress the point that no one factor is responsible for criminal behavior but that many and usually very complex factors are present, and that these concern both the hereditary constitution of the offender and all the influences which enter into his environment. The treatment of the criminal and delinquent has always been based upon the theory of equal responsibility of all. But laws and other social codes are man-made and somewhat artificial restrictions which have grown out of the "*tabus*" of primitive peoples, and while these are in the main desirable and necessary for the majority who establish them for their own purposes of protection and well-being, it has not been recognized that a considerable proportion of the social group has never been able to adjust itself to the rules of the majority. Neither has it been understood that these usual forms of restraint are ineffective and have largely failed in operation, as applied to the class referred to. Various forms of control or discipline have long been in use, including revenge, cruel or harsh punishment on general principles, retributive punishments of like character to the offenses committed, and attempts at reform based upon the idea that all offenders are cast in the same physical, mental and social mould, and are therefore, equally responsive to forms of discipline and education.

In the process of evolution of criminal procedure various divergent theories have been developed which have gone either to the one extreme or the other. On the one hand, punishment has been regarded as a useful end in itself, on the other, it has been held that in many cases at least, if not in most, it has no effect at all, either because the offender is too defective in his makeup to respond to it, or because of the theory that reformation is entirely a matter of re-education through *reason*, and that the prisoner is not subject to reason.

The truth, as usual, seems to lie between these two extremes, namely, that punishment is to some extent an end in itself, that it does exert some deterrent influence upon the individual and upon others, especially to the degree in which it is prompt and inescapable, and that even with defective individuals, punishment adapted to their degree of comprehension is somewhat deterrent

in character, but that permanent results are to be obtained only through actual segregation for life in some instances, or by long re-educative methods of reform in others. In any event, the offender's attitude toward society must be changed and his inhibitions must be strengthened, and where this appears impossible, he must be so placed that what he cannot do for himself, society must do for him in some form of permanent restraint. We have come to learn that the alcoholic is a sick man, as is also the drug addict;<sup>1</sup> that much of what passes for psychopathic unstable personality is based upon malfunctioning of the endocrine glands; that epilepsy, feeble-mindedness and insanity are conditions which are often active but unrecognized causes of crime. In short, we are coming to learn that the treatment of crime and delinquency is one of discipline, (punishment), physical care, mental care, and education. We are rapidly learning that ordinary methods of education are inapplicable, not only to many criminals and delinquents, but to great numbers of misfit children in the schools, many of whom are potentially delinquent or already pre-delinquent. And perhaps the most important lesson we are learning in our dealings with the great class of social offenders, is that *prevention* is the key-note of success, that most of criminality is preventable and should be, indeed, must be, prevented.

Investigations of the last two decades have also made it clear that the stock of racial inferiors must be gradually eliminated if civilization, which many now believe is on the brink of dissolution, is to be saved in a form worth preserving.<sup>2</sup>

<sup>1</sup> The addict is still regarded by the courts as an offender; primarily he is a defective in make-up in most instances, always sick, always in need of scientific care and kindly treatment.

<sup>2</sup> The question of foreign population in relation to crime is strikingly presented by the report, where it appears from the United States Census of 1910 that out of every 100,000 native-born white citizens there were 312.4 prisoners, while out of 100,000 of the foreign-born 732.6 were in our prisons. These facts and others not recounted by the committee naturally called for a remedy which is found in the seventh recommendation—that more stringent laws limiting and controlling immigration be enacted and enforced.

## APPENDIX

### *The Case of J. P. Watson, the Modern "Bluebeard."*

Early in May, 1920, Mr. Thos. Lee Woolwine, district attorney of Los Angeles County, California, apprehended a suspicious character who gave his name as J. P. Watson, from whom was obtained a remarkable confession. This confession was, in effect, that Watson had contracted many illegal marriages and had murdered at least nine of his wives. The investigation finally uncovered the most astounding case of criminality ever known in America.

At the time of obtaining this confession the district attorney had *no evidence*, and only unsupported suspicion against Watson, and he was merely holding the man on a technicality of suspected bigamy. Even this had not been proved, and if Watson had made no confession he might have been given his liberty within an hour, since the authorities had no ground upon which to detain him.

Watson's remarkable story, his manner of telling it, and the appearance of the man himself at first aroused the suspicion that the story was the vaporings of a deranged mind, but the detailed accuracy with which he was able to describe his last murder, which he claimed had occurred only a few days before, and his accurate description of the place where the body of the murdered woman was buried, finally impressed the district attorney with the truth of his prisoner's statement. Moreover, it had been determined that the last alleged victim of Watson had disappeared mysteriously and was nowhere to be found; and, furthermore, there was abundant evidence discovered among his effects which indicated that a long series of crimes had actually been committed.

Acting on the information he had received, the district attorney, therefore, sent an investigating group of men into the desert of Imperial Valley to the spot indicated by the prisoner as the burial place of his last victim. Watson himself did not at first accompany this party because at that time he was still in a too

weakened condition from the effects of an attempted suicide a few days before. The result of the expedition was a failure to find any trace of the alleged burial place. But a few days later the prisoner was able to accompany the officers and direct them to the spot where the body was actually discovered and exhumed.

Watson had been arrested at the instigation of the last of his numerous wives, who suspected that he was a bigamist and probably responsible for other criminal acts. No evidence sufficient to establish these charges, however, had been found by the officers, but Watson had in his possession several thousand dollars worth of Liberty Bonds, which on its face was suspicious. The prisoner stated that he had purchased these bonds in a perfectly legitimate way from a bank in San Diego and volunteered to take the officers to this bank to prove the truth of his statement. The officers accepted his offer and had started in an automobile from Los Angeles to San Diego, and it was during this six-hour ride, which was made during the night, that Watson attempted and nearly accomplished suicide by secretly slashing his throat with a penknife, a fact which was discovered only through the fainting of the prisoner in the automobile. This attempt was made so surreptitiously that it was not discovered until the car had nearly reached its destination, when the officers found that their prisoner in the back seat was in an almost dying condition from loss of blood. He was then hurried to a hospital and revived.

Later in the day the officers visited the bank indicated by their prisoner and found that the Liberty Bonds in question had actually been purchased by Watson in an apparently legitimate manner, as he had indicated. It appeared, therefore, that there were no legal grounds for further detaining the prisoner.

This dearth of evidence, however, was unknown to Watson, and as he was still held in custody, he sent for the district attorney and, after exacting a promise of an appeal to the court for immunity from the death penalty, he made his remarkable confession of a series of undetected crimes, the extent of which is unequalled in recent criminal annals anywhere in the world.<sup>1</sup>

<sup>1</sup> The notorious Landrau case in Paris has occurred since this was written. It is similar in many respects to the Watson case.



Watson is a medium sized, mild spoken man, of about forty-two years of age, quiet, and somewhat deferential in his attitude toward others. He is not cringing or servile, but rather gives the impression of possessing a humble and respectful attitude. He bears no resemblance to the human monsters of fiction, but, as in the case of many notorious criminals, he would be one of the last individuals to be suspected of hideous crimes by the average observer. He makes, in fact, an excellent impression on anyone who chances to meet him.

In conversation he uses good language of carefully chosen words, speaking always in well modulated tones which suggest considerable culture and refinement. When, therefore, this quiet man speaking without emotion, detailed hour after hour the stories of his misdeeds—a total of at least nine murders and twenty-one or more marriages, in a period covering only three years—the unreality of the situation as regards the actual facts will be readily appreciated.

Watson's method of securing his wives is interesting, and one is amazed at the ease with which it appears possible to secure marriages with women of considerable means, intelligence, and some show of refinement and education. So far as known, none of his wives was illiterate, most of them possessed considerable money, and all of them were rather striking in physical appearance. It is a surprising fact that in some instances this man would have from two to four wives at the same time, in the same community; for example, he married four women within a comparatively short period in the city of Tacoma, and he lived there with all of them at the same time. There was little to indicate that his wives had any very unusual suspicions about him until they had been married to him for a considerable period of time. When such suspicions were aroused, for one reason or another, he appears to have promptly made away with the women, though in many instances, at any rate, this was not the sole or principal motive, if we can judge at all from his own statements.

This man's method in advertising for a wife, using one of his many aliases, was usually as follows:

"A gentleman, neat appearing, of courteous disposition, well connected in a business way; has quite a little property, and is connected with several corporations. Has a nice bank account as well as a considerable roll of government bonds. Would be pleased to correspond with refined young lady or widow. Object, matrimony. This advertisement is in good faith. All answers will be treated with respect."

*"H. L. Gordon,  
"Hotel Tacoma."*

Correspondence or a personal meeting would follow. Watson would then take up the financial affairs of the women, finding out how much they possessed. He would then conduct a rapid-fire courtship with them and urge an early marriage. After marriage, he would obtain from his wife, a list of names of her relatives and friends, and would tell her his reasons for this were that in case anything should happen to his wife, he could notify her friends. As a general rule, he would prevail upon her to give him her bonds or money or deeds to property, telling her that he would use these with his own property for various successful enterprises with which he was connected, also a very few days after marriage he would suggest that a will be made, each in favor of the other. He would then state that he was in the service of the United States government as a secret service agent and therefore would be obliged to absent himself from home frequently. While away from one wife on this pretense, he would usually be occupied in visiting or marrying another woman, sometimes near by, sometimes at a distance. He would also induce a wife to sign blank bond writing paper at the bottom of the sheet. After he had murdered her he would continue to write to relatives or friends of the woman, using a typewriter above the woman's signature, explaining that "she" was just learning to use it. Strangely enough this plan always worked and the suspicions of relatives were never aroused.

Each wife would be told that she would be taken on a long trip, some to Honolulu, others to South America, or again to Mexico. He would travel most of the time in a first-class auto-

mobile, carrying a very complete camping outfit, thereby enabling him to do what he pleased with the women without causing people to become suspicious of him. Letters received from the woman's relatives would show him leaving for a long trip to South America or elsewhere, consequently they would not expect to receive mail again for a long period.

According to Watson's story, the death of the first woman credited to his list of victims was entirely accidental. It seems that this woman and himself were out on a fishing trip in a small rowboat in the Canadian forests, and had attached their boat to a raft of logs that was tied up to the bank of the river where the current was very swift. In some manner, according to his account, the woman fell from the boat and was swept under the log raft by the swift current. Watson attempted to seize her as the current swept her under, but she disappeared and was not seen again.

He says that his first impulse was to rush to one of the logging camps in the vicinity and ask for help. But he was a stranger in the neighborhood and, fearing that he might be suspected of being the cause of the woman's death, he finally decided to say nothing about the matter. In point of fact, the body was never recovered and apparently no knowledge of the woman's disappearance ever came to light until Watson himself referred to it.

Considering the number of murders that followed in rapid succession after this alleged accident, one is warranted in suspecting that the woman's death was not accidental. But since Watson frankly admits the other murders, and describes them in detail, there seems to be no logical reason why he should deny this one if it were not, indeed, accidental. There is a possibility, of course, that an accidental death which so easily escaped detection or even suspicion may have suggested the series of murders that soon followed. In any event, the first seven women of Watson's list of victims were either drowned or thrown into some body of water after being murdered.

Watson told in detail of these murders without any show of emotion or any pretense of remorse. "What became of this woman?" the district attorney would ask after Watson had narrated the details of his life with one or another of his wives.

"I made away with her—I killed her," he would reply in the evenly modulated tone and careful inflection of his narrative. Then he would describe how, for example, when walking beside a lake or river, with this or that woman, he was seized with an impulse to kill her and accordingly proceeded to carry this impulse into effect. Or, again, he would describe calmly and in detail the manner in which he had knocked one victim senseless with an oar, held her head beneath the surface until she was dead, then weighted her clothing with rocks and tossed the body into the lake; how he had beaten one woman to death with an auto wrench, and another with a hammer, omitting no details when pressed by his questioners.

Watson asserted that he was impelled to do these acts by some dominating force that he could not understand. He said that the impulse to kill would come upon him and that he would feel that some mighty power was instructing him and forcing him to commit murder. This feeling so tormented him that he would get no rest or relief until the deed was accomplished; then at once a great sense of relief would come over him—a feeling of satisfaction as though some great load had been lifted from him. At the same time this force which was dominating him would seem to tell him or make him feel that he had "done well." This impulse was, he says, sometimes resisted for days, weeks, or months, and at other times yielded to immediately.

At no time during the narrative of his promiscuous murders, even when giving the most harrowing and revolting details, did he show the least emotion. Moreover, he made no pretense of feeling any remorse; he stated, indeed, most emphatically that he felt no remorse, and explained this fact on the basis of a sort of double personality. Yet, paradoxically, his emotional nature asserted itself on several occasions about events of utter insignificance, comparatively speaking. For example, he was most eager to conceal his actual identity and the events of his life during his early boyhood. When asked to explain this attitude, he said that there were some people who had been very kind to him when he was a little boy without parents and practically without friends; that these people were very good people indeed, and that it would shock them and hurt them to know of



his misdeeds; and it was in speaking of these kindly people and his early boyhood that he choked with real emotion, which prevented him momentarily from continuing his narrative. Yet a moment later he would continue his gruesome story of hideous murders without the least trace of emotion, but at the same time with no spirit of bravado. His recital was, indeed, impersonal, calm, and coolly exact.

At the time of our visit he was in bed and had been making copious notes to refresh his memory on certain points in anticipation of our coming. Almost his first statement was to the effect that he *did not believe himself to be a sexual pervert* because all his misdeeds had been committed within the last three years. His argument was that if his crimes had been the result of sexual perversion the tendency to commit them would have shown itself much earlier in his life, as his understanding of perversion was that it always began early in life. He stated that all but one of his murders had been committed within a period of ten months. After that there had been a period of ten months in which he was able to resist the impulse to murder. Then he killed his last wife, the Delano woman. According to this statement, therefore, all his crimes were committed within twenty months, there being an interval of ten months between the last murder and the one just preceding it, which led him to argue (apparently in all seriousness) that he was "getting better" and would eventually "recover" so that he would not be impelled to do any more murders at all, a singularly childish statement for a man of Watson's intelligence, for he apparently said this with no real appreciation of the horror of his acts or of the result to himself which was sure to follow his trial.

He stated that he was raised in an orphan's home, but later on he confessed that he was brought up by an uncle, and this has been confirmed from other sources. Up to the present, it has been found impossible to obtain any satisfactory history of Watson's early life. As a boy he first attended school in the country and says that he was somewhat older than the other pupils, but asserts that he was a good student. On account of poverty he was not able to continue his school very long, but managed to

take up outside studies and also attend night school. He was always fond of reading and has always put in his odd time delving into books and seeking instruction in various branches of learning.

He says that as a boy and as a young man he avoided "evil things," also that he was always kind to animals, fond of children, was not quarrelsome, and seldom had difficulty with any of his playmates. As a boy he remembers having had an attack of some kind of "fever," and later on a very severe illness from typhoid. Still later he had what was called "slow fever," which was no doubt the local name for malaria. At one time he had quite a severe attack of rheumatism. As a young boy he had nocturnal incontinence and did not get over this habit until he was "quite a boy," as he says.

He has always been temperate in his habits but not a teetotaler. In religion he was a Protestant, but had never been very deeply affected religiously, although he had at one time attended church and had been a member of a Young People's League.

Physically, he had the abnormal genital condition known as *hypospadiac*, and as the other boys used to make fun of him at times, he always tried to conceal his deformity. For example, he never learned to swim, because he would not go swimming with the other boys and thus expose himself.

He says that he always had normal sexual impulse, but as a young man he was in some doubt as to this matter on account of his deformity. When twenty years of age, however, he fell into company with a woman of the streets and found that he was sexually normal. This experience was a great relief to his mind and later on when a doctor told him that he could be operated upon and cured of his deformity, he says that this information relieved him so that his physical abnormality never worried him very much after this.

Most of his life he had been a salesman of one kind or another, frequently a traveling salesman and usually quite a successful one. At the beginning of the great war he was in Canada living with his legal wife. At the time he was just starting a commercial agency, but at the outbreak of the war the govern-

ment restrictions practically closed this business. This worried him to such an extent that he had a nervous breakdown. According to his statement, this nervous collapse occurred almost at the outbreak of the war and he remained more or less incapacitated for something over a year. During that time he was unable to perform any great amount of work without becoming utterly exhausted.

During this time and in the period immediately following it, his wife noticed and commented upon the fact that he seemed to be a changed person—"different from what he had been." And he asserts that this period marked the change in his condition which resulted in his having the impulse to commit the crimes that followed later.

About this time he began having severe headaches, something he had never had before, although he had had several rather severe injuries to his head. Thus, when a boy about ten years old, he had a blacksmith's anvil tip over on him, pinning him to the ground with a considerable portion of the weight of the anvil resting on his head. He was not unconscious, although he was dizzy for several hours following this experience. About eight years ago he was thrown from a motorcycle, striking on the top of his head. Here again he was not rendered unconscious, but he says that he felt as if something popped in the back of his neck just beneath his skull. He was slightly stunned and dazed for a short time. He did have a pain in the back of his head and neck, however, for some little time after this accident. Again, in 1913, he fell out of an upper berth of a steamship, striking directly on the top of his head. But this did not make him unconscious—merely dazed him for a short time—and he does not believe that he experienced any bad effect from this fall.

A short time before beginning his series of murders he had a severe fright which, he declares, left him in a terribly shaken, nervous condition for more than a month. He says this fright was caused by slipping on the icy deck of a steamer, narrowly escaping being projected into the icy waters where he would certainly have drowned.

It was an extremely narrow escape from almost certain death, and the strain and shock completely unnerved him, and affected him for days, he says, more than any other event in his life before or since that time. On most people such an experience would certainly produce little effect.

At the time of Watson's arrest, the officers found that he was carrying in his pockets, and in his various grips, many trinkets, rings and pieces of jewelry, and also written documents, such as marriage certificates, which were most incriminating. These articles were of no particular value intrinsically, and were the very things that the ordinary normal criminal would have taken great pains to destroy or conceal. Yet he carried these things about with him everywhere with apparently utter disregard of possible consequences.

When asked why he did this, he replied simply, "I don't know—cannot explain why I did it." He said he knew they were very incriminating and were a constant menace that might put a noose about his neck any day.

It was reported that Watson had had epileptic fits at one time when he was a young man. When questioned about this he described these seizures as occurring several times when he was about nineteen or twenty years old. He scouted the idea that they were "fits," describing them simply as "dizzy spells" in which he would be obliged to sit down in order to avoid falling. The attacks lasted only for a few moments and were followed by a feeling of nausea.

Under the circumstances, his own mental attitude about these seizures is interesting and suggestive. He knew the symptoms of epilepsy, and the legal attitude of inclination toward leniency for persons suffering from this disease. He knew that his crimes could easily have been the result of epilepsy—were, indeed, most suggestive of this malady. Also, that a mere suggestion of this affliction might mitigate the severity of his punishment. Yet he was vigorous in combating the idea that his attacks were epileptic, asserting his belief that "it was probably biliousness." And apparently his diagnosis was correct, since he showed none of the somatic evidences almost certain to result from epileptic seizures.



His "nervous breakdown," which lasted about a year, began, as already stated, during the opening period of the war. It seems to have been a definite case of nervous collapse in which there were periods of mental and physical vigor, followed by days of exhaustion bordering on complete collapse. Of significance at this time also, is the fact that at times he developed mild delusions of persecutions, feeling that people were conspiring to injure him in his business. He also described a condition of mild depression lasting several days, followed by a corresponding period of elation without any adequate cause for either condition. Yet he made no pretense that there was any very great abnormality in this, other than might naturally accompany a protracted nervous strain and collapse. He denied that there was any time in which he was not in full control of his faculties.

Watson stated that he did not get married until he was thirty-three years old because he had not accumulated sufficient means properly to support a wife. And in this connection he was most emphatic in his assertion that there was no abnormal sexual element in this first marriage, or in connection with any of his later matrimonial ventures. Indeed, he asserts that he had been intimate with most of his numerous wives before he married them, and that sexual relations had been normal after marriage. He says also that it was fully three years after his marriage to the first Mrs. Watson before he began his crimes which later became so promiscuous.<sup>2</sup>

This man stated that during the time of depression or mental unrest that had come upon him within the last three years he would frequently be obsessed with an indescribable impulse—an indefinable mental compulsion. As a result of this he would sometimes get into his automobile and drive aimlessly miles and miles without any particular plan. Sometimes he would find himself five hundred miles from the starting point before he regained his normal equilibrium.

Curiously enough, he regarded his obsession for killing women as an illness, and showed a childish lack of appreciation of the natural repulsion that his deeds might arouse in others. He

<sup>2</sup> Actually his second marriage. He had deserted one wife in early life.

stated in all seriousness that he believed it possible for him to be cured of his affliction so that he would no longer have the irresistible impulse to kill women. And one suggestion of this obtuseness—this utter absence of normal introspection—was his statement that since he had gone “almost a year without killing anyone” this last time, he felt that he was “recovering.” And he stated further that he believed “when I am cured, I will be safer to be at large than most men are.”

When we consider that these statements were made at a time when there was a strong probability that he might hang; that in any event, the lightest sentence he could possibly hope for would be incarceration for the rest of his life, there is certainly something very much askew with the mentality of a man having such a past and such a prospective future. Even when reminded somewhat brutally by one of the examiners that he would probably hang, and, at best, would spend the rest of his days in prison, he mildly asserted his belief that “when authorities find I am cured, they will be ready to help me.”

To all appearances he was entirely sincere and deeply in earnest in this statement.

### *Conclusion.<sup>3</sup>*

After taking all the available evidence in this remarkable case into consideration, entirely definite conclusions in regard to it are impossible and the diagnosis is, therefore, left in some doubt. A number of factors enter into the evidence which cause considerable complication. One must, however, consider the following important evidence:

1. Watson appears to have suffered from a pretty definite compulsion neurosis.
2. He may be a victim of epilepsy in one of its masked forms.
3. There is a strong probability of sex perversion of either a conscious or subconscious character, particularly as the constant carrying about of women's trinkets and clothing would suggest

<sup>3</sup> This case has been presented in detail mainly because of its very important bearings on police problems.

"fetishism." The fact that this man admits that he experienced a great sense of mental and physical relief and an actual elation of spirit after his murders leads one to suspect sex perversion as the basis of them, in spite of his apparently honest denial of any such circumstance. It also suggests a strong probability of a sex equivalent, just as epilepsy has its equivalents, and makes it appear not improbable that the whole matter was in the nature of a mental complex or a subconscious experience. Particularly is one impressed with this possibility in hearing this strange man freely and unemotionally admit that he experienced no real regrets, sorrow or worry over his acts, while at the same moment he says that such an act in another would fill him with unspeakable horror! His acts, indeed, suggest an almost automatic and dissociated condition. His regrets appear, therefore, to be entirely outside of the emotional sphere, just as one might have an abstract and coldly logical regret over the suffering and death of individuals of whom one knew nothing.

4. There is a possibility that this man suffered from a combination of mental abnormalities which may include all of the conditions mentioned, that is to say, he may be a sex pervert with some epileptic characteristics, to which may be added a *compulsion neurosis*.

That Watson is in any sense normal or to any appreciable degree responsible for his acts, no student of behavior could possibly conclude. Whether his mental state is congenital or acquired, or whether it is in part congenital, and on to this certain acquired defects have been grafted, one cannot at present decide. It would appear to us at present that here is a man of constitutionally inferior make-up; one whose history, as far as obtainable, gives evidence of a rather high degree of mental instability; one who has all along lacked moral sense in some important respects; that such a constitutionally inferior personality has been subjected to certain circumstances of environment, which have developed his tendencies into definitely abnormal criminal acts.

There can be no question as to Watson's *intelligence*. His native intellectual capacity is distinctly above the average and this has enabled him to hold positions requiring much judgment and

tact. His information is very considerable and covers a wide field; his education is remarkable for a man whose opportunities have been limited and who has had to depend almost entirely upon his own efforts. He is, therefore, not feeble-minded. Neither could anyone conclude that his case falls into any of the usual classifications of insanity. The most practical diagnosis of the case of this monster criminal would at present appear to be about as follows: Congenital psychic inferiority, with sex perversion, either congenital or acquired, to which is possibly added an epileptic type of personality. We freely admit the entire inadequacy of such a diagnosis and suggest it only as the most practical one under the present limitations of our knowledge.

Further investigations covering Watson's development period of life and his early history would add much to the understanding of this remarkable case, and such information is now being diligently sought. Psycho-analysis might uncover much which now remains unknown. To call such a man "insane," a "moral imbecile" or a "natural born criminal," means nothing and leads to no solution of such problems. We feel that such cases as this one demand the fullest and most complete investigation possible and that the penitentiary authorities should leave no opportunity untouched which might shed light on such tremendously important social, medical and psychological problems.



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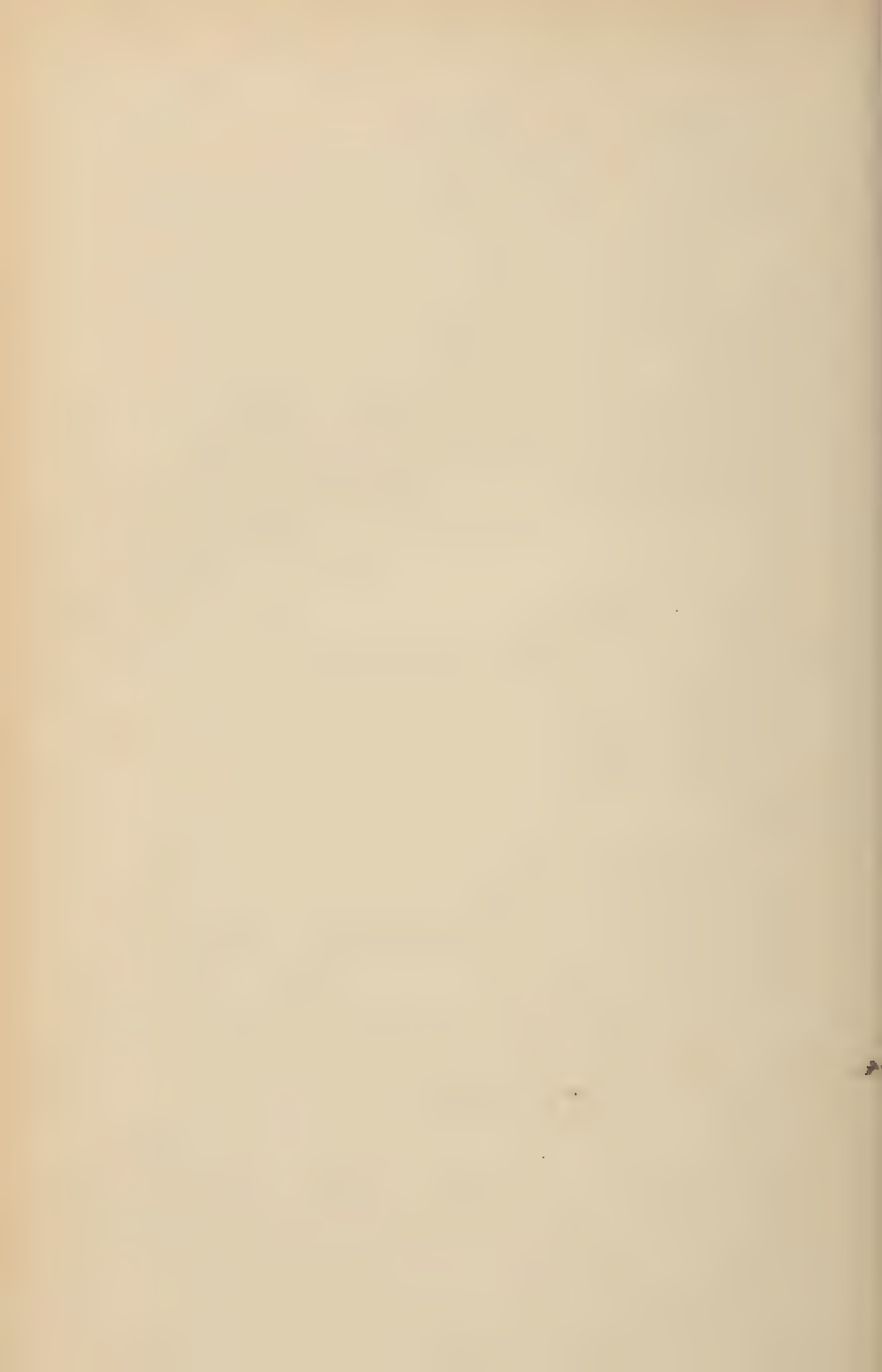
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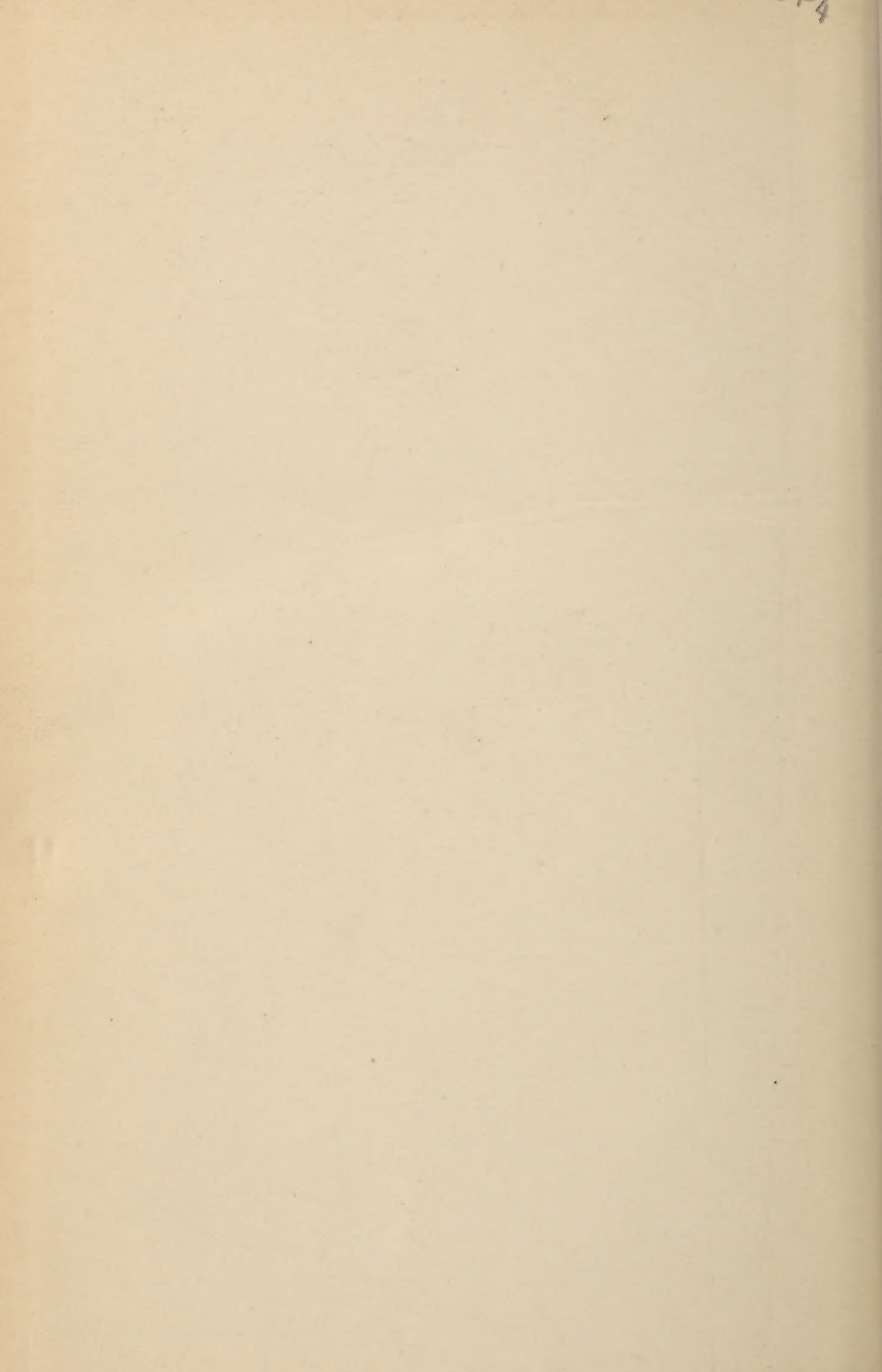














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